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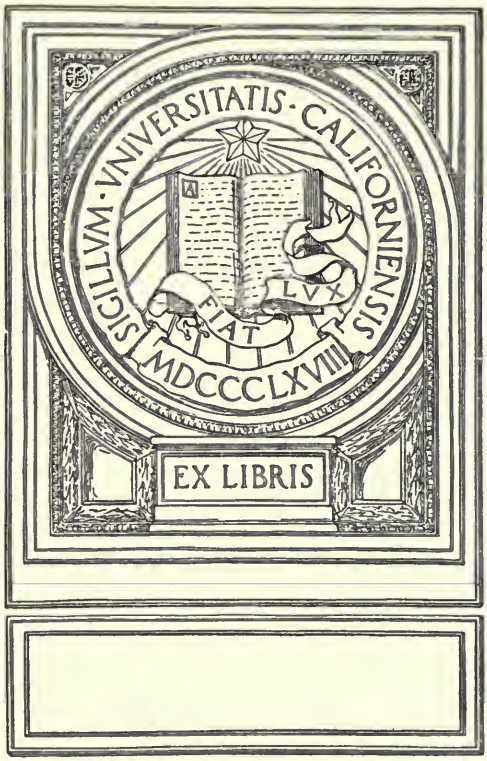
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THE PROPOSED NEW CONSTITUTION FOR ILLINOIS

TO BE VOTED UPON DECEMBER 12, 1922

TEXT OF THE PROPOSED CONSTITUTION WITH EXPLANATORY COMMENTS. ALSO TEXT OF CONSTITUTION OF 1870 WITH CROSS REFERENCES

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CHICAGO BUREAU OF PUBLIC EFFICIENCY

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PRIOR PUBLICATIONS.

1. Method of Preparing and Administering the Budget of Cook County, Illinois. January, 1911.

2. Proposed Purchase of Voting Machines by the Board of Election Commissioners of the City of Chicago. May, 1911. (Out of Print.)

3. Street Pavement Laid in the City of Chicago: An Inquiry Into Paving Materials, Methods and Results. June, 1911. (Out of Print.)

4. Electrolysis of Water Pipes in the City of Chicago. July, 1911. (Out of Print.)

5. Administration of the Office of Recorder of Cook County, Illinois. September, 1911. (Out of Print.)

6. A Plan for Publicity in the Office of County Treasurer. October, 1911. (Out of Print.)

7. Repairing Asphalt Pavement: Work Done for the City of Chicago Under Contract of 1911. October, 1911. (Out of Print.)

8. The Municipal Court Acts: Two Related Propositions Upon Which the Voters of Chicago Will be Asked to Pass Judgment at the Election of November 7—Vote No. October 31, 1911. (Out of Print.)

9. The Water Works System of the City of Chicago. By Dabney H. Maury. December, 1911. (Out of Print.)

10. Bureau of Streets Civil Service Commission; and Special Assessment Accounting System of the City of Chicago. December, 1911. (Out of Print.)

11. Administration of the Office of Coroner of Cook County, Illinois. December, 1911.

12. Administration of the Office of Sheriff of Cook County, Illinois. December, 1911.

13. Administration of the Office of Clerk of the Circuit Court and of the Office of Clerk of the Superior Court of Cook County, Illinois. December, 1911.

14. The Judges and the County Fee Offices. December 19, 1911. (Out of Print.)

15. General Summary and Conclusions of Report on the Park Governments of Chicago. December, 1911.

16. The Park Governments of Chicago: An Inquiry Into Their Organization and Methods of Administration. December, 1911.

17. Offices of the Clerks of the Circuit and Superior Courts: A Supplemental Inquiry Into Their Organization and Methods of Administration. November, 1912.

18. Administration of the Office of the Clerk of the County Court of Cook County, Illinois. November, 1912. (Out of Print.)

19. Office of Sheriff of Cook County, Illinois: A Supplemental Inquiry Into Its Organization and Methods of Administration. November, 1912.

20. Growing Cost of Elections in Chicago and Cook County. December 30, 1912.

21. The Voting Machine Contract: A Protest Against Its Recognition in Any Form by the City Council of the City of Chicago. January 1, 1913.

22. The Office of the County Treasurer of Cook County, Illinois: An Inquiry Into the Administration of Its Finances with Special Reference to the Question of Injurious or Public Funds. November, 1913.

23. The Nineteen Local Governments in Chicago. December, 1913. (Out of Print.)

(Continued on inside back cover)

THE PROPOSED NEW CONSTITUTION FOR ILLINOIS

TO BE VOTED UPON DECEMBER 12, 1922

TEXT OF THE PROPOSED CONSTITUTION WITH EXPLANATORY COMMENTS. ALSO TEXT OF CONSTITUTION OF 1870 WITH CROSS REFERENCES

CHICAGO BUREAU OF PUBLIC EFFICIENCY
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This publication is designed especially for writers, speakers, and others who may wish to familiarize themselves with the nature and effect of the changes made by the proposed new constitution, and who may find it convenient to have the proposed and the present constitutions printed, with cross references, in one volume.

Until the limited edition of this publication is exhausted, any citizen of Illinois may secure a copy free of cost by writing to the Chicago Bureau of Public Efficiency, 315 Plymouth Court, Chicago.

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INTRODUCTION

The Constitutional Convention in submitting the proposed new constitution to the people says: "It is not to be pretended that the instrument is perfect, or even that it represents all the hopes and wishes of any one man or of any group of men. It is, as was the Federal Constitution and as all such measures must be, the result of compromise." The address of the Convention also says that the only question to be answered is: "Does the proposed new Constitution, on the whole and in view of the needs of all of the people of the whole state, promise better governmental conditions than the present Constitution?"

The answer to these questions must depend largely upon a consideration of (a) the manner in which the proposed constitution will modify provisions of the present constitution, (b) what new provisions have been added in framing the proposed constitution, and (c) what present provisions have been omitted from the proposed instrument.

For the purpose of aiding in a determination of these questions the Chicago Bureau of Public Efficiency presents the accompanying comparative analysis of the present and proposed constitutions.

The Bureau believes that the best interests of the state will be served by the ratification of the proposed instrument. In this publication, however, the Bureau has sought not to present arguments either for or against its ratification, but to set forth the changes made by the Constitutional Convention, together with their purpose and effect.

In making the analysis of the two instruments, and in preparing the comments on the differences therein, the Bureau has had the exceedingly valuable assistance of Walter F. Dodd, of the Chicago Bar.

CHICAGO BUREAU OF PUBLIC EFFICIENCY,

October, 1922. HARRIS S. KEELER,

Director.

THE PROPOSED NEW CONSTITUTION FOR ILLINOIS

GENERAL PLAN AND ORGANIZATION OF THE PROPOSED CONSTITUTION

The constitution of 1870 and the proposed new constitution each have fourteen articles, but those of the new do not in several instances parallel those of the present with respect to either subject matter or title. The constitution of 1870 also contains four separate supplementary sections which are not included in the fourteen articles. Three of these separate sections have been incorporated in the body of the proposed constitution.

The proposed constitution contains certain articles which deal with substantially the same subjects that are dealt with in similarly entitled articles of the constitution of 1870, as shown by the following tabulation:

Proposed Constitution	Constitution of 1870
Bill of Rights	Bill of Rights
Powers and Form of Government	Distribution of Powers
Legislative Department	Legislative Department
Executive Department	Executive Department
Judicial Department	Judicial Department
Suffrage and Elections	Suffrage
Education	Education
Militia	Militia
Amendments to the Constitution	Amendments to the Constitution

Article 1 of the constitution of 1870 on "Boundaries" is omitted altogether from the proposed constitution, which contains nothing on that subject.

Article 9 of the constitution of 1870 entitled "Revenue" has been expanded to include "Revenue and Finance".

Article 10 of the constitution of 1870 entitled "Counties" is replaced by a more elaborate one on "Local Governments".

Articles 11 and 13 of the constitution of 1870 on "Corporations" and "Warehouses", respectively, have been replaced by an article on "Warehouses and Common Carriers" in which have been brought together a number of the provisions of the separate articles. Other provisions dealing with corporations in general and with banks have been placed in other parts of the proposed constitution. (See sections 44, 49, 61 and 64.)

The proposed constitution adds two new articles. One is entitled "Canals and Waterways" and brings into the text of the constitution matters now dealt with in the separate supplementary section of the constitution of 1870 entitled "Canals".

The other new article is entitled "Public Servants" and brings together provisions scattered through various articles of the constitution of 1870.

The separate supplementary sections of the present constitution entitled "Illinois Central Railroad" and "Convict Labor" are found in sections 147 and 50, respectively, of the proposed constitution. The separate section on "Municipal Subscriptions to Railroads or Private Corporations" has been omitted.

The constitution of 1870 numbered its sections separately within each article. The proposed new constitution numbers its sections consecutively throughout the whole document. This makes the proposed constitution a more convenient document in this respect.

The constitution of 1870 placed within the same section matters not dealing with precisely the same subject. The proposed new constitution seeks to place in separate sections provisions dealing with different matters or with different aspects of the same matter, and is in this respect better organized than the constitution of 1870.

The proposed constitution also seeks a more logical arrangement of subject matter among the respective articles. For example: The prohibition of banks of issue or of the state having an interest in banks is placed in section 49, because *expressly* a limitation upon the general assembly, while certain other provisions regarding banks are placed in section 64, because they do not *expressly* limit the general assembly, although they actually constitute limitations. A new provision requiring laws to encourage forestry is placed in section 57 under "legislative department", whereas a provision

permitting forestry lands to be classified for or exempted from taxation is placed in section 146 under "revenue and finance". A requirement that the auditor of public accounts shall publish a statement of legislative expenses is transferred from the article on legislative department to the article on executive department (see section 84), apparently because the auditor is the person required to act. Certain provisions relating to finance are under a similar plan placed under the "legislative" and "executive" departments and others under "public servants", whereas other provisions not clearly distinguishable are found in the article dealing with "revenue and finance".

OMISSIONS

A number of provisions in the present constitution have been omitted from the proposed document. In some cases the omitted matter is obsolete; in others the omissions are occasioned by the adoption of a new policy by the Convention; and in still others no explanation for the changes is available. (See pages 99 to 107.)

NEW SUBJECT MATTER ADDED

A number of subjects are dealt with in the proposed constitution in an entirely new way, or are dealt with for the first time. Such matter is of course not comparable with anything in the constitution of 1870. Among the more important of these new provisions are the following:

Permitting Bible reading in the public schools. (Sec. 3.)

Against race discrimination. (Sec. 19.)

Guaranteeing republican form of government. (Sec. 21.)

Authorizing legislative apportionment in the absence of action by the general assembly. (Sec. 24.)

Authorizing committees of the general assembly to continue during recess. (Sec. 33.)

Requiring separate appropriation bills for executive state offices. (Sec. 37.)

Concerning printing and placing appropriation bills on desks of members prior to final action thereon. (Sec. 39.)

Concerning forestry. (Secs. 57 and 146.)

Permitting state aid in certain drainage and other projects. (Sec. 59.)

Permitting excess condemnation. (Sec. 60.)

Permitting zoning. (Sec. 62.)

Permitting farm loans. (Sec. 63.)

Requiring interest report from state treasurer. (Sec. 82.)

Requiring uniform system of accounts for certain county officers. (Sec. 85.)

Concerning temporary assistance for the judges of the Supreme Court. (Sec. 90.)

Vesting in the Supreme Court the power to prescribe rules of practice and procedure for all courts. (Sec. 93.)

Creating appellate courts with an entirely separate set of judges. Appellate courts are now held by judges of the circuit courts. (Secs. 95-99.)

Reorganizing and consolidating courts of Cook County. (Secs. 105-112.)

Consolidating county and probate courts outside of Cook County. (Secs. 113-115, and Schedule, Sec. 17.)

Requiring salaries for justices of the peace and constables. (Secs. 116-117.)

Concerning the appointment of justices of the peace and constables in Cook County. (Sec. 117.)

Authorizing declaratory judgments. (Sec. 122.)

Concerning the assignment of judges from one district or circuit to another. (Sec., 130.)

Establishing one-election-a-year plan. (Sec. 136.)

Authorizing income taxes. (Secs. 142-145.)

Authorizing the reorganization of county government. (Sec. 166.)

Creating office of county assessor in counties other than Cook. (Sec. 170.)

Granting home rule powers, powers for consolidating local governments, and powers for financing municipally owned transportation and water properties to the city of Chicago. (Secs. 178-193.)

Permitting statutes of limitations in favor of public officers. (Sec. 205.)

Permitting public officers and employes to be given a vested interest in accumulated pension funds. (Sec. 206.)

Concerning the maintenance and development of the University of Illinois and a system of state normal schools. (Sec. 209.)

Requiring the power of supervising and controlling elections in Cook County to be vested by the general assembly in some elective county officer or officers. (Schedule, Sec. 16.)

CHANGES IN PHRASEOLOGY

In drafting the proposed constitution the language of the present document has been largely discarded and an entirely new style and phraseology have been adopted. In the following section by section comments mere changes in phraseology have been disregarded unless the revised language appears to effect a change in substance.

The completeness with which the Convention has revised the present constitution with respect both to arrangement of subject matter and to phraseology makes it difficult satisfactorily to present the two documents in parallel columns. In this publication, therefore, the proposed constitution is presented with explanatory comments; the matter in the constitution of 1870 which has been omitted from the proposed constitution is shown separately; and the constitution of 1870 is also printed with cross references to those sections of the proposed document in which the same subject matter is dealt with.

The Proposed New Constitution of Illinois 1922

Adopted in Convention at the City of Springfield
September 12, 1922

For Submission to the People for Ratification
at a Special Election to be held December 12, 1922

CONSTITUTION OF ILLINOIS

PREAMBLE

We, the people of the State of Illinois, grateful to Almighty God for the civil, political and religious liberties which He hath so long permitted us to enjoy and looking to Him for a blessing upon our endeavors to secure and transmit them unimpaired to succeeding generations, in order to form a more perfect government, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution.

The preamble is the same in substance as the preamble to the constitution of 1870. Immaterial changes in punctuation and phraseology only have been made.

ARTICLE I

BILL OF RIGHTS

Section 1. All men are by nature free and independent and have certain inherent and inalienable rights; among these are life, liberty and the pursuit of happiness. To secure these rights and the protection of property, governments are instituted among men, de-

riving their just powers from the consent of the governed. A frequent recurrence to the fundamental principles of civil government is necessary to preserve the blessings of liberty.

This section combines Sections 1 and 20 of Art. 2 of the constitution of 1870.

Section 2. No person shall be deprived of life, liberty or property without due process of law.

This section is identical with Art. 2, Sec. 2 of the constitution of 1870.

Section 3. The free exercise and enjoyment of religious profession and worship without discrimination shall forever be guaranteed. No person shall be denied any civil or political right, privilege or capacity on account of his religious opinions. The liberty of conscience hereby secured shall not be construed to dispense with oaths or affirmations, excuse acts of licentiousness or justify practices inconsistent with the peace or safety of the state. No person shall be required to attend or support any ministry or place of worship against his consent, nor shall any preference be given by law to any religious denomination or mode of worship. The reading of selections from any version of the Old and New Testaments in the public schools without comment shall never be held to be in conflict with this constitution.

Except for the last sentence, this section is the same as Art. 2, Sec. 3 of the constitution of 1870, with immaterial changes in sentence construction.

The last sentence is entirely new. In People ex rel. Ring v. Board of Education, 245 Ill. 334 (1910), the Illinois Supreme Court held that under the constitution of 1870 Bible reading even without comment in public schools violates the guarantee of "free exercise and enjoyment of religious profession and worship without discrimination." The new provision is intended to overcome the effect of this decision and to make it possible for the general assembly or local school authorities to provide for Bible reading without comment. The new provision will permit, but will not require, such reading.

Section 4. Every person may freely speak, write or publish on any subject but is responsible for the abuse of this liberty. In trials for libel, civil or criminal, the truth when published with good motives and for justifiable ends is a sufficient defense.

This section is the same as Art. 2, Sec. 4 of the constitution of 1870, except for immaterial changes in verbiage and sentence construction.

Section 5. The right of trial by jury shall remain inviolate but may be waived except in capital cases. The general assembly may provide that women may be eligible to serve as jurors. Juries of less than twelve in civil cases may be authorized by law.

This section deals with the same subject as Art. 2, Sec. 5 of the constitution of 1870. Several important changes have been made.

(a) Express permission is given for the waiver of jury trial except

in capital cases. The provisions of sections 5 and 9, Art. 2 of the constitution of 1870 have been held to prevent waiver of jury trial by the accused in cases prosecuted by indictment. The new language permits waiver of jury trial in all civil cases and in all criminal cases not capital.

(b) This section also permits the general assembly to provide that women may be eligible to serve as jurors. This whole matter is left to the discretion of the general assembly, which may determine whether women may serve, and to what extent they may serve.

(c) The last sentence of this section permits provision by law for juries of less than twelve in civil cases. The constitution of 1870 permits provision by law for a jury of less than twelve only in civil cases before justices of the peace.

(d) The phrase "as heretofore enjoyed" which appeared in the constitution of 1870 has been omitted. This phrase accomplished no useful purpose and caused difficulty in judicial construction.

Section 6. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated. No warrant shall issue without probable cause, supported by affidavit particularly describing the place to be searched and the persons or things to be seized.

This section is identical in substance with Art. 2, Sec. 6 of the constitution of 1870.

Section 7. Excessive bail shall not be required. The privilege of the writ of habeas corpus shall not be suspended unless in case of rebellion or invasion the public safety may require it.

This section deals with the same matter as Art. 2, Sec. 7 of the constitution of 1870. The first sentence of the section makes a material change. The language of the present constitution provides that "all persons shall be bailable, by sufficient sureties, except for capital offenses where the proof is evident or the presumption great." This language guarantees the right to bail, except under rather limited conditions in capital cases. The proposed section contains no such guarantee to the accused. The language employed does not expressly destroy the power of the general assembly to regulate bail, and the ordinary rule is that the general assembly has powers not denied. Assuming this construction, the entire subject will be within the jurisdiction of the general assembly, which may continue or modify the existing rules for the protection of accused persons. It should be noted, however, that the address of the Convention says that the language leaves the question of bail "within the sound discretion of the judge."

Section 8. No person shall be held to answer for a capital offense unless on indictment of a grand jury. Offenses which may be punished by imprisonment in the penitentiary may be prosecuted by indictment or on information filed by the attorney general or by a state's attorney. No such information shall be filed by a state's attorney except by leave granted, either in term time or in vacation, by a judge of a court of record having jurisdiction of the offense, after a showing of probable cause. All other offenses may be prosecuted as

provided by law. This section shall not apply to cases of impeachment, cases arising in the army and navy and in the militia when in actual service in time of war or public danger.

This section deals with the same matter as Art. 2, Sec. 8 of the constitution of 1870, which requires indictment of a grand jury "except in cases in which the punishment is by fine, or imprisonment otherwise than in the penitentiary, in cases of impeachment, and in cases arising in the army and navy, or in the militia, when in actual service in time of war or public danger."

The language of the present constitution expressly provides "that the grand jury may be abolished by law in all cases," but this has been construed by the attorney general of the state as requiring the complete abolition of the grand jury, or its continuance in all cases except those mentioned in the above quotation.

The new section 8 divides criminal cases into three classes: (a) Capital offenses, which must be prosecuted on indictment; (b) offenses punished by imprisonment in the penitentiary, which may be prosecuted either by indictment or on information; and (c) all other offenses, which may be prosecuted as provided by law. This would reduce very materially the number of cases in which it is necessary to employ the cumbersome process of indictment by grand jury in criminal prosecutions.

Before filing an information the state's attorney will be required to obtain leave of a judge of a court having jurisdiction of the offense, and must make a showing of probable cause in order to obtain this leave. No such requirement applies to informations filed by the attorney general.

Section 9. In all criminal prosecutions the accused shall have the right to appear and defend in person and by counsel; to demand the nature and cause of the accusation and to have a copy thereof; to meet the witnesses face to face; to have process to compel the attendance of witnesses in his behalf; and to have a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed.

This section is identical in substance with Art. 2, Sec. 9 of the constitution of 1870.

Section 10. No person shall be compelled in any criminal case to give evidence against himself or be put in jeopardy twice for the same offense.

This section is identical in substance with Art. 2, Sec. 10 of the constitution of 1870.

Section 11. All penalties shall be proportioned to the nature of the offense. No conviction shall work corruption of blood or forfeiture of estate. No person shall be transported out of the state for any offense committed therein.

This section is identical in substance with Art. 2, Sec. 11 of the constitution of 1870.

Section 12. No person may be imprisoned for debt except upon refusal to deliver up his estate for his creditors as prescribed by law or in case of strong presumption of fraud.

This section is identical in substance with Art. 2, Sec. 12 of the constitution of 1870.

Section 13. Private property shall not be taken or damaged for public use without just compensation which, when not made by the state, shall be ascertained by a jury.

This section is taken from Art. 2, Sec. 13 of the constitution of 1870, with immaterial changes.

The provisions of Art. 11, Sec. 14 of the constitution of 1870 also deal with power of eminent domain, but have been omitted from the proposed constitution, except as they are included in section 180 with respect to the powers of the city of Chicago. (See comment p. 106.)

Section 13 should be read in connection with sections 60, 180 and 226.

As now construed, the constitution of 1870 may be regarded as forbidding the condemnation of land in fee by local communities or other agencies, although the decisions have been based more specifically upon statutory than upon constitutional provisions. The present constitution expressly provides in Art. 2, Sec. 13 (and this provision has been transferred to section 226) that the fee of land taken for railroad tracks without the consent of the owner shall be retained by the owner.

Sections 60 and 180 are intended to make it clear that in certain cases at least land may be taken in fee by governmental bodies through the power of eminent domain. Section 180 confers upon the city of Chicago the power to take private property "in fee simple or otherwise", "in accordance with law." Section 60 relates specifically to excess condemnation by governmental bodies. It provides for the taking in fee simple of land in excess of that which is needed for a public improvement, but does not aid a construction favorable to the taking in fee simple of land specifically condemned for the improvement itself.

Section 14. No *ex post facto* law or law impairing the obligation of contracts or making any irrevocable grant of special privileges or immunities shall be passed.

This section is identical with Art. 2, Sec. 14 of the constitution of 1870.

Section 15. The military shall be in strict subordination to the civil power. No soldier in time of peace shall be quartered on a householder without his consent or in time of war except as provided by law.

This section is a consolidation of Sections 15 and 16 of Art. 2 of the constitution of 1870. The first sentence is identical with the constitution of 1870. The only change of substance in the second sentence is the substitution of the words "on a householder without his consent" for the words "in any house without the consent of the owner."

Section 16. The people have the right to assemble in a peaceable manner to consult for the common good, to make known their opinions to their representatives and to apply for redress of grievances.

This section is identical with Art. 2, Sec. 17 of the constitution of 1870.

Section 17. All elections shall be free and equal.

This section is identical with Art. 2, Sec. 18 of the constitution of 1870.

Section 18. Every person ought to find a certain remedy in the law for all injuries and wrongs which he may receive in his person, property or reputation. He ought to obtain right and justice by law, freely, without being obliged to purchase it, completely and without denial, promptly and without delay.

This section is identical in substance with Art. 2. Sec. 19 of the constitution of 1870.

Section 19. Laws shall be applicable alike to all citizens without regard to race or color.

This section is entirely new. It is intended to protect against discriminations on the ground of race or color.

ARTICLE II

POWERS AND FORM OF GOVERNMENT

Section 20. The legislative, executive and judicial departments shall be separate and no one of them shall exercise powers properly belonging to another.

This section is Art. 3 of the constitution of 1870 completely rewritten and reduced materially in length.

Section 21. The republican form of government of this state shall never be abandoned, modified or impaired.

This section is entirely new. The constitution of the United States guarantees a "republican form of government" to each state. The purpose and effect of this new section in the state constitution are not clear. In some quarters it is claimed that it is intended to prohibit the initiative, referendum and recall.

Concerning the state government itself, it may be said that the initiative, referendum and recall are now largely prohibited by restrictions in the present constitution. The state-wide initiative is completely barred, except as the general assembly may permit advisory votes, which have no binding legal effect, under "public policy" or other similar laws. No right, by petition, or otherwise, to require that general state laws be submitted to referendum now exists. Both the present and the proposed constitutions require referenda on certain bond and other questions. The question as to whether any other act of the general assembly requiring approval by the voters on a state-wide referendum would be invalid, on

the ground that such action by the general assembly would be an unwarranted delegation of legislative power, has not been decided by the courts of this state. The recall is now barred as to constitutional state officers. The question of its application to elective statutory state officers has not been presented to the courts of this state.

With respect to local governments within the state, the Illinois Supreme Court has held (People v. Edmands, 252 Ill. 108 [1911]) that the guarantee by the United States Constitution of a republican form of government to the states applies only to the state government and not to the "affairs of minor municipalities or local subdivisions of the state." And a provision in the constitution of Texas that "the faith of the people of Texas stands pledged to the preservation of a republican form of government" has not operated to prohibit the application of the initiative, referendum and recall to municipal government in that state.

This provision will be judicially enforceable and its meaning and effect must be finally determined by the Illinois Supreme Court. In this respect it is unlike the provision of the Federal constitution guaranteeing a republican form of government to the states which has been held by the United States Supreme Court not to be judicially enforceable but to present a question to be determined by the political organs of the Federal government.

ARTICLE III

LEGISLATIVE DEPARTMENT

Section 22. The legislative power shall be vested in a general assembly consisting of a senate and a house of representatives.

This section is substantially the same as Art. 4, Sec. 1 of the constitution of 1870.

Section 23. The general assembly at the regular sessions in nineteen hundred twenty-three, nineteen hundred thirty-three and every twelve years thereafter shall apportion the state into fifty-seven senatorial districts each of which shall elect one senator and into one hundred fifty-three representative districts each of which shall elect one representative. The basis of apportionment for both houses shall be the number voting for governor at the last regular election for that office previous to the apportionment. Every district shall be formed of compact and contiguous territory and shall be bounded by county lines except in counties comprising two or more districts when such districts may be bounded by precinct or ward lines.

The territory now forming the county of Cook shall constitute nineteen senatorial districts. The territory forming the rest of the state shall constitute thirty-eight senatorial districts. At each apportionment the number so voting in the county of Cook shall be divided by nineteen and the quotient shall be the senatorial ratio for that territory and the number so voting in the rest of the state shall be divided by thirty-eight and the quotient shall be the senatorial ratio for that territory. The senatorial districts in each territory shall contain as

nearly as practicable the ratio for that territory but in no case less than three-fourths of such ratio.

At each apportionment the number so voting in the entire state shall be divided by one hundred fifty-three and the quotient shall be the representative ratio for the state. Representative districts shall contain as nearly as practicable the representative ratio. No district shall contain less than four-fifths of the representative ratio. But a county having less than four-fifths of the ratio may be joined with an adjoining county having less than the ratio in forming a district; counties having less than four-fifths of the ratio may be formed into districts of one or more counties; such districts shall be as near the ratio as practicable; and when of more than one county such counties shall be adjoining. Counties comprising not less than one ratio and three-fourths shall be divided into two or more districts. Each district in counties comprising more than two districts shall contain at least the full ratio.

This section covers the subject of the apportionment of the state into legislative districts, and in that respect corresponds with Sections 6, 7 and 8 of Art. 4 of the constitution of 1870.

The present constitution provides for apportionment into 51 senatorial districts, on the basis of population, from each of which are elected 1 senator and 3 representatives. It provides for minority representation in the lower house by permitting cumulative voting for representatives.

The proposed constitution provides for two separate sets of districts. Under it there will be 57 senatorial districts, 19 of which will be apportioned to Cook County and 38 of which will be apportioned to the remainder of the state. This plan will not change the number of districts now allotted to Cook County but will add six new districts in the state outside of Cook County. The effect of these provisions is permanently to limit the representation of Cook County in the senate to one-third.

The proposed constitution also provides for 153 representative districts from each of which will be elected one representative. Cook County like other parts of the state will have representation in the house of representatives on the basis of its voting strength.

The new plan abolishes minority representation and cumulative voting.

The present constitution provides for apportionments on the basis of population to be made every ten years, after each Federal census. The new constitution provides for apportionments on the basis of the number of persons voting for governor at the last regular election previous to apportionment, such apportionments to be made in 1923, 1933 and every twelve years thereafter.

Under the present constitution no senatorial district may have less than four-fifths the ratio; the revision permits districts with three-fourths the ratio. Under the present constitution a county with one and three-fourths of the senatorial ratio may be divided into separate districts and be entitled to two senators. Under the new constitution a county with one and one-half the ratio may be given two senators.

Section 88 covers the subject of the apportionment of the state for membership of the Supreme Court; section 232 for membership of a constitutional convention.

Section 24. If the general assembly fails to make any such apportionment it shall be the duty of the secretary of state, the attorney general and the auditor of public accounts to meet at the office of the governor within ninety days after the adjournment of the regular session of the year designated for that purpose and make an apportionment as provided in section twenty-three of this constitution.

This section is entirely new. Under the constitution of 1870 decennial reapportionments are required, but since 1901 the general assembly has refused to comply with this requirement, and there is no power in the courts or any other agency to compel action. By providing for action through certain elective state officers, in case the general assembly fails to act, the convention has sought to make sure of apportionments at the time provided for in the constitution.

Section 25. Senators shall be at least twenty-five and representatives at least twenty-one years of age. No person shall be a member of the general assembly who holds any other lucrative public office or employment (except as a militia officer or justice of the peace) or is not a citizen of the United States or has not resided for five years in the state and for two years next before his election in the territory forming the district.

The subject matter of this section is found in Art. 4, Sec. 3 of the constitution of 1870. The qualifications prescribed in each section are substantially the same, except that the present constitution bars persons holding any lucrative office "under the United States or this State" from membership in the general assembly. The new provision omits these words and extends the prohibition to any "lucrative public office or employment." Art. 4, Sec. 3 provides that the office of notary public shall not be held lucrative; the revised section omits this on the ground that the ruling would be to that effect in any event.

This section should be read in connection with sections 54 and 196.

Section 26. Senators from even numbered districts shall be elected in nineteen hundred twenty-four and those from odd numbered districts in nineteen hundred twenty-six and every four years thereafter. Representatives shall be elected in nineteen hundred twenty-four and every two years thereafter. Senators shall hold office for four years and representatives for two years beginning on the day of the convening of the regular session next after the election. Vacancies shall be filled by special elections called by the governor.

The provisions of this section are taken largely from Art. 4, Sections 2, 6, 7 and 8 of the constitution of 1870. The provision specifying when terms shall begin is new but conforms to the present practice. The provision of present Art. 4, Sec. 2 which fixes the date of elections for members of the general assembly, has been omitted on the ground that in view of other provisions it is unnecessary. The terms of senators to be first elected from the six additional districts created by section 23 are fixed by section 7 of the Schedule.

Time of Meeting and Rules

Section 27. The general assembly shall convene at noon on Wednesday after the first Monday in January in odd numbered years. The secretary of state shall preside over the house of representatives until a temporary presiding officer is chosen who shall preside until a speaker is chosen. The lieutenant governor shall preside over the senate and may vote in case of tie. The senate shall choose a president to preside during the absence or pending the impeachment of the lieutenant governor or while he acts as governor.

The provisions of this section are taken without substantial change from Art. 4, Sec. 9 and Art. 5, Sec. 18 of the constitution of 1870.

Section 28. The governor may convene the general assembly by proclamation on extraordinary occasions; but it shall enter upon no business save that stated in the proclamation or in one additional message from the governor during the session.

This section is substantially the same as Art. 5, Sec. 8 with the addition of the words "or in one additional message from the governor during the session." The constitution of 1870 requires the governor to designate in his proclamation all the subjects to be considered at an extraordinary session. If, between the time of issuing his proclamation and the adjournment of the extraordinary session, he desires other matters to be considered, he must under the present constitution call an additional extraordinary session. The new clause is inserted for the purpose of permitting the governor to designate additional subjects for consideration by the general assembly after it has been convened in an extratordinary session, thereby obviating the present cumbersome procedure. The constitutions of a number of other states permit the governor thus to designate further subjects by message.

Section 29. Members of the general assembly before entering upon their duties shall take and subscribe the following oath or affirmation:

I do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of the State of Illinois and will faithfully discharge the duties of senator (or representative) to the best of my ability; that I have not, knowingly or intentionally, paid or contributed anything or made any promise in the nature of a bribe directly or indirectly to influence any vote at my election; that I have not accepted, nor will I accept or receive, directly or indirectly, any money or other valuable thing from any corporation, association or person for any vote or influence I may give or withhold on any bill, resolution or appropriation or for any other official act.

This oath shall be administered by a judge of the supreme or circuit court in the hall of the house to which the member is elected. The secretary of state shall record and file the oath subscribed by each member. Any member who refuses to take this oath shall forfeit his office. Any member who is convicted of swearing falsely to

or of violating his oath shall forfeit his office and be disqualified thereafter from holding any office in this state.

This section is identical in substance with Art. 4, Sec. 5 of the constitution of 1870. The general oath of office for all officers, except members of the general assembly, is found in section 197.

Section 30. A majority of the members elected to each house shall constitute a quorum. Each house shall determine its rules, choose its temporary and permanent officers and judge the election and qualifications of its members. Each house may punish by imprisonment not exceeding twenty-four hours (unless the offense is persisted in) any person not a member guilty of disorderly or contemptuous behavior in its presence; and by a vote of two-thirds of those elected and once only for the same offense may expel a member.

The provisions of this section are taken without substantial change from Art. 4, Sec. 9 of the constitution of 1870.

Section 31. The doors of each house and of committees of the whole shall be open except when in the opinion of the house secrecy is required. Neither house without the consent of the other shall change its place of sitting or adjourn for more than three days. Each house shall keep and publish a journal of its proceedings. Two members of the senate or five members of the house may have the yeas and nays taken on any question and entered upon the journal. Two members of either house may have entered upon the journal in respectful language the reasons for their dissent from or protest against any act or resolution.

The matters covered by this section are found in Art. 4, Sec. 10 of the constitution of 1870, which has been materially revised as to form without changing its substance, except that the period for which either house may adjourn without the concurrence of the other is changed from two to three days.

Section 32. If the two houses disagree as to time of adjournment, the governor on receiving a certificate of such disagreement from either house may adjourn the general assembly to any time not beyond the first day of the next regular session.

A similar provision is found in Art. 5, Sec. 9 of the constitution of 1870, the language of which is substantially the same, except that under this section the disagreement may be certified by "either house" whereas under Art. 5, Sec. 9 the certification must be made by the "house first moving the adjournment."

Section 33. By joint resolution concurred in on roll call by two-thirds of the members elected to each house, the general assembly may authorize committees to continue after its adjournment *sine die* and until the next regular session convenes.

This section is new. Its purpose is to overcome the effect of the decision in Fergus v. Russel, 270 Ill. pages 343-346 (1915), that legislative committees may not be authorized to sit after the sine die adjournment of the general assembly.

Legislative Procedure

Section 34. No law shall be passed except by bill. Bills may be originated, amended or rejected in either house.

The first sentence of this section is new, but is merely a declaration of an implied requirement of the constitution of 1870. The second sentence is taken without substantial change from Art. 4, Sec. 12 of the constitution of 1870.

Section 35. The enacting clause of laws shall be: Be it enacted by the People of the State of Illinois, represented in the General Assembly.

The language of the enacting clause as here prescribed is identical with that of the present constitution. (Art. 4, Sec. 11.)

Section 36. No act shall embrace more than one subject and that shall be expressed in the title. Any act embracing a subject not expressed in the title shall be void only as to such subject. No act shall be revived by reference to its title only. An act expressly amending an act shall set forth at length the section or sections as amended.

The provisions of this section are taken from Art. 4, Sec. 13 of the constitution of 1870 with one material change. Section 13 provides that "no law shall be revived or amended by reference to its title only, but the law revived, or the section amended, shall be inserted at length in the new act." Since 1900 this provision regarding amendment by reference has been construed to apply to acts which are in terms independent acts, as well as to acts which are in their form amendatory. The word "expressly" has been inserted in the last sentence of section 36 for the purpose of limiting the application of this provision to acts which are expressly amendatory.

Section 37. Appropriation bills to pay members, officers and employees of the general assembly shall contain no provision on any other subject. Appropriations for the offices of governor, lieutenant governor, secretary of state, attorney general, treasurer, auditor of public accounts and superintendent of public instruction shall be made by separate bills for each office.

This section is in its present form substantially new. Art. 4, Sec. 16 of the constitution of 1870 provides that "bills making appropriations for the pay of members and officers of the general assembly, and for the salaries of the officers of the government shall contain no provision on any other subject." The first sentence of section 37 modifies this provision by requiring a separate appropriation bill "to pay members, officers and employes of the general assembly." The second sentence of section 37 is entirely new and requires a separate appropriation bill for the offices of each of the seven elective state officers. The effect of these changes is to do away with the necessity for a separate officers' salary bill, but to require separate appropriation bills for the salary expenses of the general assembly, and for all expenses of each of seven state offices.

Section 38. Bills making appropriations of money out of the treasury shall specify the objects and purposes for which the appropriations are made and appropriate to them respectively their several amounts in distinct items and sections.

The provisions of this section are taken from Art. 5, Sec. 16 of the constitution of 1870, without change of substance.

Section 39. No subject matter shall be included in any conference committee report on an appropriation bill unless such subject matter directly relates to matters of difference between the houses and has been specifically referred to the conference committee. No appropriation bill shall be passed and no report of any conference committee on an appropriation bill shall be considered unless the bill or report has been printed in its final form and placed on the desks of the members at least three legislative days prior to the final passage of the bill or the consideration of the report.

This section is new. Heretofore, conference committees on appropriation bills, and on many other measures, have reported upon matters not involved in controversy between the two houses. The first sentence of the new section will prevent this practice in the future as to appropriation bills.

In connection with appropriation bills, it has been the practice also for committees to report back some of the more important measures, such as the omnibus bill, late in the session. Where differences as to the larger appropriation bills have then developed between the two houses, such bills have in many cases been referred to a conference committee on the last day of the session. The report of the conference committee would then be submitted for final action late at night and shortly before adjournment. Under these conditions the two houses have almost of necessity acted upon the report of the conference committee without an opportunity adequately to consider it. The second sentence of this section will require that all appropriation bills and all conference committee reports on appropriation bills be printed and laid before the members three days before they are acted upon.

Section 40. Every bill shall be read by title on three different days in each house but the rules of either house may provide for the reading of bills at greater length on second and third reading.

Article 4, Sec. 13 of the constitution of 1870 requires that every bill "shall be read at large on three different days, in each house." In practice, this requirement has been found to serve no useful purpose and has not been generally complied with. Occasionally a demand for readings in full has been made for obstruction purposes. As changed, this section still requires consideration of each bill on three separate days in each house, and leaves the question of readings in full to the discretion of each house.

Section 41. Every bill and all amendments thereto, except an amendment striking out an emergency clause, shall be printed before final passage in each house. No bill shall become law unless on final passage in each house a majority of the members elected concur

by yea and nay vote which shall be taken separately on each bill and entered upon the journals. When passed by both houses a bill shall be signed by the presiding officers thereof and the facts of printing, placing on the desks of members, signing and presentation to the governor and the date of such presentation shall be entered upon the journals.

The first sentence of section 41 is taken from Art. 4, Sec. 13 of the constitution of 1870 without material change other than the addition of the clause "except an amendment striking out an emergency clause." The added language conforms to existing practice in the two houses, though no constitutional issue has ever been presented with respect to it.

The second sentence of section 41 regarding roll call and journal entry of roll call is taken without substantial change from Art. 4, Sec. 12 of the constitution of 1870.

The last sentence of the section is new, except so far as it relates to the requirement of signing by the presiding officers of the two houses, which is now in Art. 4, Sec. 13. This sentence requires certain additional steps in procedure to be entered upon the journals.

Section 42. Every bill passed by the general assembly shall be presented to the governor and if signed by him shall thereupon become law. At the time of signing an appropriation bill the governor may disapprove any section or item thereof by appending to the bill a statement of his objections. If the governor does not approve a bill or if he disapproves an appropriation bill in part, he shall return the bill with his objections to the house where it originated. If thereafter such disapproved bill or any disapproved section or item of an appropriation bill is again approved by two-thirds of the members elected to each house, the bill or such section or item of an appropriation bill shall become law notwithstanding the objections of the governor. Any disapproved bill or disapproved part of an appropriation bill shall be reconsidered first in the house where the bill originated and then sent with the objections of the governor to the other house. Each house before reconsidering shall enter the governor's objections at large upon its journal.

Any bill which is not returned by the governor within ten days, Sundays excepted, after it is presented to him shall thereupon become law as if he had signed it. If the general assembly by adjournment prevents its return the bill shall become law at the end of thirty days after such adjournment unless within that time the governor files the bill and his objections with the secretary of state.

The substance of this section is found in Art. 5, Sec. 16 of the constitution of 1870 as amended in 1884. The new section has been rewritten and one material change has been made. The present constitution provides that in case of adjournment a bill shall be filed with the governor's objections in the office of the secretary of state "within ten days after such adjournment, or become a law." The section as revised extends the time to thirty days.

Section 43. No appropriation act shall take effect until the first day of July succeeding its enactment and no other act shall take effect until sixty days after the adjournment of the session at which it was enacted; but in an emergency, the fact of which shall be expressed in the body of the act, the general assembly may direct otherwise by a vote of two-thirds of the members elected to each house.

Article 4, Sec. 13 of the constitution of 1870 provides that no act shall take effect until the first day of July next after its passage, unless an emergency is declared. Usually the general assembly has continued in session until nearly the first of July. Under these circumstances most laws heretofore have taken effect long before their text could be generally available in printed form. The purpose of the change made by section 43 is to provide a period of sixty days after the adjournment of a session, during which laws may be printed and made available to the public before they become operative. A declaration of emergency may bring a law into effect at an earlier time, as under the present constitution. Appropriation acts are still to take effect on the first day of July, unless an emergency is declared. This is for the purpose of providing a fixed two year period for appropriations. Section 153 should be read with section 43 in this connection.

Legislative Limitations

Section 44. No local or special law shall grant divorces; change the names of persons or places; provide for opening, altering or working public highways; vacate highways, public grounds or town plats; regulate county or town affairs; create municipal corporations or amend their charters; provide for summoning or impaneling juries; provide for the management of common schools; regulate interest rates; regulate elections or designate places of voting; regulate the sale or mortgage of real estate of persons under disability; protect game or fish unless by reasonable classification of waters; authorize ferries or toll bridges; remit fines, penalties or forfeitures; change the law of descent; grant the right to construct railroad tracks; grant any special or exclusive privilege, immunity or franchise; or grant or change any corporate powers except those of educational, charitable, reformatory or penal corporations, under the patronage and control of the state.

The provisions of this section are taken from Art. 4, Sec. 22 of the constitution of 1870, except the last clause which is taken from Art. 11, Sec. 1. In the revision of this section certain matters found in Art. 4, Sec. 22 have been omitted.

(a) The provision with reference to "locating or changing county seats." The same purpose is regarded as met by the prohibition of special legislation regulating county or town affairs, and by the provisions of section 169 with respect to county seats.

(b) The provisions with respect to regulating practice in courts of justice, regulating the jurisdiction and duties of justices of the peace, police magistrates and constables, and changes of venue in civil and criminal cases, have been omitted because they are covered by section 120.

(c) The provision regarding the election of members of boards of

supervisors in townships, incorporated towns or cities is covered in the general prohibitions of special legislation with respect to municipal and town affairs.

(d) The provision regarding the increase or decrease of fees, allowances, etc., during term is covered by the general prohibition of section 201.

One other change should be noted. The words "unless by reasonable classification of waters" are new. The Supreme Court in the case of People v. Wilcox, 237 Ill. 421 (1908) held that no distinction could be made with respect to the protection of fish between the waters of Lake Michigan and the other waters of the state. This view has been somewhat modified by a later decision, but the clause above quoted has been added for the purpose of making such a classification clearly possible.

What is now the last clause of Art. 4, Sec. 22 has been transferred to section 45 of the proposed new constitution.

Section 45. No special law shall be enacted if a general law can be made applicable.

This section is identical in substance with the last clause of Art. 4, Sec. 22 of the constitution of 1870.

Section 46. Lotteries and gift enterprises are forbidden.

This section is substantially identical with Art. 4, Sec. 27 of the constitution of 1870.

Section 47. No liability due the state or any subdivision thereof or any municipal corporation shall ever be released or extinguished by law.

This section is substantially the same as Art. 4, Sec. 23 of the constitution of 1870. The legal effect of this section is modified by section 205 which permits a statute of limitations in favor of a public officer. The attorney general has held that no such statute operative against the state or any municipal corporation could be passed under the present constitution.

Section 48. No officer shall be elected or appointed by the general assembly or by either house except their respective officers.

This section is taken without material change from Art. 5, Sec. 10 of the constitution of 1870.

Section 49. No law shall be passed authorizing any bank of issue or authorizing the state to conduct, own any interest in or incur any liability for any banking business.

This section is taken with material modifications from Art. 11, Sec. 5 of the constitution of 1870. The provisions of that section prohibit the creation of a state bank or the state's owning or being liable for stock in any organization for banking purposes. The new provision forbids the state to "incur any liability for any banking business." This language is somewhat broader than that of Art. 11, Sec. 5 prohibiting a stock liability, but is probably no broader than Art. 11, Sec. 5, when read with Art. 4, Sec.

20 of the present constitution, the provisions of which are also found in section 157 of the proposed new constitution.

Section 49 forbids banks of issue. The language of the constitution of 1870 permits banks of issue, and contains in Art. 11, Sections 7 and 8, detailed provisions regulating such banks. No banks of issue have existed since the period of the civil war, and none are likely to exist in the future, in view of the Federal policy of taxing state bank issues. The Convention therefore deemed it wise to forbid the creation of state banks of issue, and to omit the detailed provisions of Art. 11, Sections 7 and 8 as surplusage.

The constitution of 1870 in Art. 11, Sec. 5 requires a popular vote upon banking laws and amendments thereto. This requirement was important in 1848 and 1870, as a means of dealing with the then existing evils with respect to banking legislation. Such a provision is no longer necessary and has therefore been omitted.

For other provisions regarding banks see section 64.

Section 50. No law shall be passed authorizing the labor of any convict confined within any penitentiary or other reformatory institution to be let to any corporation, association or person.

This section is a revision of a separate section incorporated in the constitution by amendment of 1886. The purpose of the present provision has been effected by the revision.

Impeachments

Section 51. The governor and all civil officers of the state shall be liable to impeachment for misdemeanor in office. The house of representatives shall have the sole power of impeachment. A majority of the members elected must concur therein. Impeachments shall be tried by the senate, each senator being upon oath or affirmation to do justice according to the law and the evidence. When the governor is tried the chief justice shall preside. No person shall be convicted without the concurrence of two-thirds of the senators elected. Judgment in case of impeachment shall not extend beyond removal from office and disqualification for any office under the state; but the person impeached whether convicted or acquitted shall be liable to prosecution according to law.

This section is a consolidation of Art. 4, Sec. 24 and Art. 5, Sec. 15 of the constitution of 1870, without substantial change.

Provisions concerning Members

Section 52. The pay and mileage allowed each senator and representative shall be certified by the presiding officers of their respective houses and entered upon the journals. No senator or representative shall receive any other compensation or allowance. No law increasing the pay or other allowance of members of the general assembly shall take effect until the second regular session next following its enactment.

Provisions regarding the compensation of members of the general as-

sembly will be found in Art. 4, Sec. 21 of the constitution of 1870. The revision in section 52 omits all of the matter found in Art. 4, Sec. 21 regarding compensation of members at the first session after the adoption of that constitution. This matter is, of course, obsolete. The constitution of 1870 leaves the fixing of compensation to the general assembly but permits in addition "the sum of $50.00 per session to each member" for postage, stationery, newspapers and all other incidental expenses and perquisites. This provision is omitted from section 52, which provides that "no senator or representative shall receive any other compensation or allowance" than the pay and mileage prescribed by law.

The constitution of 1870 prohibits a change in the compensation of members of the general assembly during the term for which they may have been elected. Section 52 forbids the taking effect of any law increasing the pay or allowance of members "until the second regular session next following its enactment."

For provisions regarding increase in compensation of other officers during their official terms see section 201.

Section 53. Except for treason, felony or breach of the peace senators and representatives shall be privileged from arrest while going to, attending or returning from sessions of the general assembly. They shall not be questioned elsewhere for any speech in either house.

This section appears to be substantially the same as Art. 4, Sec. 14 of the constitution of 1870. There is some question as to whether the privilege from arrest under section 53 extends to recess periods.

Section 54. No person elected to the general assembly shall receive or hold any lucrative civil appointment in this state during the term for which he is elected.

Article 4, Sec. 15 of the constitution of 1870 provides that no person elected to the general assembly shall receive any civil appointment "from the Governor, the Governor and Senate, or from the General Assembly." The new language extends the prohibition to "any lucrative civil appointment in this state." This applies to local as well as state appointments. The new language permits members of the general assembly to receive and hold civil appointments which are not lucrative.

Section 55. No member of the general assembly during his term or within one year thereafter shall be beneficially interested directly or indirectly in any contract, authorized by a law enacted during his term, with the state or any subdivision thereof or any municipal corporation.

This section is taken without substantial change from Art. 4, Sec. 15 of the constitution of 1870, except that the prohibition is extended to contracts with "the state or any subdivision thereof or any municipal corporation" instead of applying only to those with the state or any county.

Miscellaneous Provisions

Section 56. The general assembly shall pass liberal homestead and exemption laws.

This section is identical with Art. 4, Sec. 32 of the constitution of 1870.

Section 57. The general assembly shall pass laws to encourage forestry.

This section is new. It should be read in connection with section 146 which permits the exemption from taxation of areas devoted to forests.

Section 58. The general assembly shall pass laws for the protection of operative miners, providing for ventilation and the construction of escapement shafts or other appliances securing safety in mines and shall prescribe such penalties and punishments for the enforcement thereof as it deems proper.

This section is substantially the same as Art. 4, Sec. 29 of the constitution of 1870.

Section 59. The general assembly may provide (a) for opening private roads to communicate with public roads, (b) for permitting owners and lessees of lands and minerals to construct drains, ditches and levees on, across or under the lands of others for agricultural, sanitary or mining purposes, (c) for organizing drainage districts for flood control or for sanitary or agricultural purposes with powers of eminent domain and special assessment and (d) for making surveys and straightening and improving water courses at the expense in part of drainage districts and in part of the state or any subdivision thereof. This section and the three preceding sections shall not be construed as limitations of the powers of the general assembly.

The part of this section in clause (a) is taken from Art. 4, Sec. 30 of the constitution of 1870; the part in clauses (b) and (c) from Art. 4, Sec. 31. The other matter is new. Certain changes in language and effect have been made in the provisions taken from the constitution of 1870.

In clause (b) the words "lessees", "minerals" and "on or under" have been added.

In clause (c) the words "for flood control" have been added. The power of eminent domain has been expressly conferred. By this section the power of special assessment is to be vested directly in the drainage district instead of in the "corporate authorities thereof" as provided in the present constitution.

The language of clause (d) is intended to permit the state to aid in drainage and certain other projects. Art. 4, Sec. 20 of the present constitution probably now prohibits such aid. Its provisions have been incorporated in section 157 and to negative the effect thereof in respect to such projects the language of clause (d) has been inserted.

Section 60. The general assembly may authorize the state or any subdivision thereof or any municipal corporation to take in fee simple and to hold, lease or sell more land than is needed for a public improvement whenever the court finds the excess is required to protect, preserve or aid the improvement and is reasonable in quantity therefor.

This section is new, and is for the purpose of permitting "excess condemnation."

Section 61. The general assembly shall not grant the right to occupy the streets or public grounds of any municipal corporation without its consent.

Article 11, Sec. 4 of the constitution of 1870 prohibits any law "granting the right to construct and operate a street railroad within any city, town or incorporated village, without requiring the consent of the local authorities having the control of the street or highway proposed to be occupied by such street railroad." Section 61 extends this prohibition so as to prevent the occupancy of "the streets or public grounds of any municipal corporation" without its consent.

Section 62. The general assembly in order to promote the general welfare may authorize cities, villages and incorporated towns to adopt reasonable regulations governing the use and appearance of land and the location, appearance, size and use of structures and to divide their territory into zones to each of which special regulations may be applied. Distinctions may be made between conditions existing at the time of adoption of any such regulations and future conditions. Such regulations shall not be enforced as to conditions existing at the time of their adoption without payment of just compensation unless such regulations might lawfully be so enforced irrespective of the provisions of this section. Any statute in force at the time of the adoption of this constitution (or any ordinance passed in conformity with such statute) which comes within the provisions of this section shall be valid.

This section is new. Its purpose is to remove any doubt as to the constitutional power of the general assembly to authorize zoning.

Section 63. The general assembly may provide for lending money on farm lands in the state; but no act providing therefor (or any amendment thereto) shall take effect until it is approved by a majority of those voting on the question at a general election. Such loans shall be amortized in not to exceed thirty-three years and shall be secured by first mortgages or deeds of trust made by those owning, occupying and cultivating the lands pledged. Reasonable preferences concerning loans may be given to persons honorably discharged from the armed forces of the United States.

This section is new.

Section 64. Every stockholder of a bank shall be liable (in addition to any liability for his stock) to the amount of the par value of the stock held by him for liabilities of the bank accruing while he held such stock. The general assembly shall provide the manner in which that obligation may be enforced. In every election for directors of a bank each stockholder may cast, in person or by proxy, as many votes as shall equal the number of directors to be elected multiplied by the number of shares owned by him and may cumulate his votes for one candidate or distribute them among several.

The first part of this section is a revision of Art. 11, Sec. 6 of the constitution of 1870, which provides that every stockholder of a bank

"shall be individually responsible and liable to its creditors." This language has been omitted and the following sentence has been added: "The general assembly shall provide the manner in which that obligation may be enforced." These changes have been made to overcome the effect of the decision in Golden v. Cervenka, 278 Ill. 409 (1917), under which the provisions of the present section for enforcing the stockholders' liability have been found unduly restrictive.

The latter part of this section is taken from Art. 11, Sec. 3 but there is an important difference in the two sections. Section 64 prescribes an exclusive method of stock voting for banking corporations only. Art. 11, Sec. 3 prescribes the same method for all corporations and prohibits the general assembly from regulating stock voting therein. (People v. Emmerson, 302 Ill. 300 [1922].) Section 64, by limiting the application of the present rule to banking corporations, will leave the general assembly free to regulate stock-voting in all other corporations. And such power to regulate will include the power to provide for classes of stock issues and to differentiate as to the voting rights of the holders of different classes thereof. (See section 49 for other provisions regarding banks.)

ARTICLE IV

EXECUTIVE DEPARTMENT

Section 65. The executive department shall consist of a governor, lieutenant governor, secretary of state, attorney general, treasurer, auditor of public accounts, superintendent of public instruction and such other officers as provided by law. Except the lieutenant governor they shall reside at the seat of government during their terms.

The provisions of this section are found in Art. 5, Sec. 1 of the constitution of 1870, except the clause "and such other officers as provided by law" which is new and is inserted for the purpose of insuring the power of the general assembly to create statutory offices in the executive department.

Section 66. The governor and lieutenant governor each shall be at least thirty-five years of age and a citizen of the state for ten years next before his election. No elective officer of the executive department shall hold another office during the term for which he is elected.

Provisions similar to those of this section will be found in Art. 5, Sec. 5 of the constitution of 1870. The age qualification of the governor and lieutenant governor has been raised from thirty to thirty-five years, and the requirement as to citizenship within the state has been changed from five to ten years. The provisions of the last sentence of Art. 5, Sec. 5 of the present constitution are limited to certain enumerated constitutional officers. The last sentence of the new section applies to all elective officers of the executive department.

Section 67. No state treasurer shall again hold that office within four years after his term expires. The treasurer may be required by the governor to give reasonable additional security and in default of so doing his office shall be deemed vacant.

Article 5, Sec. 2 of the constitution of 1870 fixes the treasurer's term at two years and makes him ineligible to the office for the succeeding two years. The change from two to four years in section 67 corresponds to the change in length of term made by section 68.

Section 68. The officers specifically named in section sixty-five of this constitution except the superintendent of public instruction shall be elected in nineteen hundred twenty-four and every four years thereafter. The superintendent of public instruction shall be elected in nineteen hundred twenty-six and every four years thereafter. The term of office of every such officer shall be four years from the second Monday of January next after his election.

This section extends the treasurer's term from two to four years, but otherwise embodies the provisions of Art. 5, Sections 1, 2 and 3 of the constitution of 1870 without substantial change.

Section 69. The election returns for officers of the executive department shall be sealed and transmitted by the returning officers to the secretary of state directed to the speaker of the house of representatives. Before that house proceeds to other business and immediately after its organization, the speaker shall open and publish such returns in the presence of a majority of each house assembled in the hall of the house of representatives and then declare elected to each office the person so shown to have the highest number of votes therefor. The general assembly by ballot in joint session shall determine contested elections for such offices and in case of tie shall choose in like manner one of the persons tied.

This section is identical in substance with Art. 5, Sec. 4 of the constitution of 1870.

Section 70. The public records and papers of the executive department shall be kept at the seat of government.

This section is taken from Art. 5, Sec. 1 of the constitution of 1870.

Section 71. The officers of the executive department shall be paid salaries and shall not receive to their own use any other compensation.

The provisions of this section are taken without substantial change from Art. 5, Sec. 23 of the constitution of 1870.

Section 72. Each officer of the executive department shall perform such duties as are prescribed by law.

Article 5, Sec. 1 of the constitution of 1870 contains a like provision applicable to constitutional officers of the executive department. The revised section expressly extends the provision to all officers of the executive department.

Section 73. The supreme executive power shall be vested in the governor who shall take care that the laws are faithfully executed.

This section is identical in substance with Art. 5, Sec. 6 of the constitution of 1870.

Section 74. At the commencement of each regular session and at the close of his term the governor shall inform the general assembly of the condition of the state and recommend such measures as he deems expedient. At the same times he shall account to the general assembly for all funds subject to his order.

The substance of this section is found in Art. 5, Sec. 7 of the constitution of 1870. The requirement that the governor's accounting shall be "with vouchers" has been omitted; as has also the clause "at the commencement of each regular session, present estimates of the amount of money required to be raised by taxation for all purposes." Under the civil administrative code the governor has full statutory power to present estimates of appropriations and proposals for raising revenue.

Section 75. The governor shall nominate and with the consent by yea and nay vote of a majority of those elected to the senate shall appoint all officers whose appointment or election is not otherwise prescribed by law. If a vacancy exists during the recess of the senate in any office where the appointing power is vested in the governor subject to the consent of the senate, the governor shall make a temporary appointment until the next meeting of the senate when he shall nominate some person for the office. No person rejected by the senate shall be nominated again for the office at the same session save on request of the senate or be appointed to the office during the recess of the senate.

The provisions of this section are taken without substantial change from Art. 5, Sections 10 and 11, except that the substitution of the words "where the appointing power is vested in the governor subject to the consent of the senate" for the words "in any office which is not elective" may operate to restrict somewhat the power of the governor to fill vacancies. In connection with the governor's power to fill vacancies, section 75 should be read with sections 80, 125, 131 and 137.

Section 76. For incompetency, neglect of duty or malfeasance in office the governor may remove any officer whom he may appoint.

This section is substantially the same as Art. 5, Sec. 12 of the constitution of 1870, except that the revision omits the last clause of Sec. 12 on the ground that it is surplusage.

Section 77. The governor may grant reprieves, commutations and pardons for all offenses after conviction on such terms as he thinks proper; but the manner of applying therefor may be regulated by law.

This section is the same in substance as Art. 5, Sec. 13 of the constitution of 1870 except that the clause "on such terms as he thinks proper" is new and will permit the governor to grant conditional pardons.

Section 78. The governor shall be commander-in-chief of the armed forces of the state except when they are in the service of the United States and may call them out to execute the law, protect life or property, suppress insurrection or repel invasion.

The section is the same in substance as Art. 5, Sec. 14 of the constitution of 1870, except that the clause "protect life or property" is new. This added clause appears to have been intended to give the governor authority to employ the armed forces of the state in flood emergencies or other such cases. It seems to add little, if anything, to the present authority of the governor, who apparently has full power in the matter under the phrase "execute the law." In any case the governor's discretion as to calling out the militia is not judicially reviewable.

Section 79. If the office of governor becomes vacant the lieutenant governor shall become governor for the residue of the term. If the governor fails to qualify, is absent from the state or is under disability, the powers, duties and emoluments of the office shall devolve upon the lieutenant governor for the residue of the term or until the cause which renders the governor incapable of performing his duties is removed. If there is no lieutenant governor or if for any of the above causes he is incapable of performing the duties of the office, its powers, duties and emoluments shall devolve, first upon the president of the senate and after him, for like causes, upon the speaker of the house of representatives; but each of them shall act only until the cause which renders the officer having the prior right incapable of performing the duties of the office is removed or until the vacancy is filled by election.

The provisions of this section are taken without substantial change from Art. 5, Sections 17 and 19.

Section 80. If the office of secretary of state, attorney general, treasurer, auditor of public accounts or superintendent of public instruction becomes vacant, the governor shall fill the vacancy by appointment until a successor is elected and qualified.

This section is taken without substantial change from Art. 5, Sec. 20 of the constitution of 1870.

Section 81. Each officer of the executive department and the chief officer of each public institution of the state shall render under oath to the governor a semiannual account of all moneys received or disbursed. At least ten days before the regular session of the general assembly each of these officers shall report the condition of his office to the governor who shall transmit the reports to the general assembly. Additional reports may be required of these officers by the governor.

The first sentence of this section is the same in substance as the second part of Art. 5, Sec. 20 of the constitution of 1870. The second sentence is taken from Art. 5, Sec. 21 without substantial change, except for the omission of the reference to the reports of the judges of the Supreme Court.

Reports from judges as to defects in the laws are required by Art. 6, Sec. 31 of the present constitution. This requirement has seldom been complied with by the courts and is omitted from the proposed new constitution.

Section 82. The state treasurer as a part of each semiannual report shall show the daily balances of state funds in his custody and in every bank, safe or other place of deposit or safe keeping where such funds were during the period covered by the report. He shall accompany his report with a sworn statement of an executive officer in charge of every such bank, safe or other place of deposit. Such statement shall show each payment of interest or other compensation made or to be made by reason of the deposit or use or keeping of any part of such funds.

This section is new, and is intended to make more certain the accounting by the state treasurer for interest upon state funds. It should be read in connection with sections 200 and 203.

Section 83. There shall be a great seal of the State of Illinois to be kept and used by the secretary of state as directed by law.

This section is identical in substance with Art. 5, Sec. 22 of the constitution of 1870.

Section 84. The auditor of public accounts shall publish within sixty days after the adjournment of each session of the general assembly a statement of the expenses of such session, specifying the amount of each item and to whom and for what paid.

This section is identical in substance with the last sentence of Art. 4, Sec. 17 of the constitution of 1870.

Section 85. A uniform system of accounts for all county officers shall be prescribed and supervised by the auditor of public accounts and their accounts shall be audited by him.

This section is new.

ARTICLE V

JUDICIAL DEPARTMENT

Section 86. The judicial power shall be vested in a supreme court, in appellate, circuit and county courts and in justices of the peace.

Article 6, Sec. 1 of the constitution of 1870 provides for a "supreme court, circuit courts, county courts, justices of the peace, police magistrates" and "such courts as may be created by law in and for cities and incorporated towns." Other sections of Art. 6 provide for appellate and probate courts and for the superior and criminal courts of Cook County.

The proposed new constitution provides for a supreme court and four appellate courts.

It also provides for circuit courts, county courts and justices of the

peace, in the territory outside of Cook County. In this territory no other courts may be created in the future, but city courts now in existence are continued until the first Monday of November, 1927. (Schedule, Sec. 22.)

In Cook County, provision is made for a circuit court, into which will be consolidated on May 7, 1923, the present circuit, superior, criminal, county and probate courts of the county, the municipal court of Chicago, and the city court of Chicago Heights. Justices of the peace are continued in Cook County outside of the city of Chicago.

The Supreme Court

Section 87. The supreme court shall consist of nine justices one of whom to be chosen by themselves shall be chief justice.

This section increases the number of justices of the Supreme Court from seven to nine; otherwise it is taken without change from Art. 6, Sections 2 and 6 of the constitution of 1870.

Section 88. The state shall be divided into seven districts for the election of justices. The districts including the county of Cook shall elect three justices, not more than two of whom shall at the time of their respective elections reside in the same county. Each of the other six districts shall elect one justice. Until otherwise provided by law, the seven districts shall remain as at the time of the adoption of this constitution.

Under section 88, the present apportionment of the state into Supreme Court districts is continued until otherwise provided by law, but provision is made for the election of three justices from the district of which Cook County is a part (Cook, Will, Lake, Kankakee and DuPage Counties) not more than two of whom shall reside in the same county at the time of their election. Under Art. 6, Sections 5 and 6 of the present constitution each Supreme Court district elects one justice.

Section 89. One justice shall be elected in the first district in nineteen hundred thirty-three; one justice shall be elected in the second district in nineteen hundred thirty-five; one justice shall be elected in the third district in nineteen hundred thirty-three; one justice shall be elected in the fourth district in nineteen hundred thirty-nine; one justice shall be elected in the fifth district in nineteen hundred thirty-seven; one justice shall be elected in the sixth district in nineteen hundred thirty-seven; one justice shall be elected in the seventh district in nineteen hundred thirty-one; one justice shall be elected in the seventh district in nineteen thirty-three; one justice shall be elected in the seventh district in nineteen hundred thirty-five. The justices from the seventh district shall be elected on the first Monday of June in the years in which their terms expire and the justices from the first, second, third, fourth, fifth and sixth districts shall be elected on the first Tuesday after the first Monday of November in the years in which their terms expire. The term of office of each justice shall be ten years from the date of his election.

This section provides the dates for the election of justices of the

Supreme Court and fixes their term of office. In these respects it is similar to Art. 6, Sec. 6 of the constitution of 1870. Under section 89 the term will be ten years, whereas at present it is nine years. All Supreme Court justices are now elected in June. Under section 89 elections in the seventh district will still be held in June; in other districts they will be held in November.

The two new justices provided for the seventh district are to be elected on December 12, 1922, and if the constitution is ratified, will hold office until nineteen thirty-one and nineteen thirty-three, respectively. (Schedule, Sec. 8.) Section 8 of the Schedule also adjusts the terms of the justices to be elected to succeed those now in office so that such terms will conform to the dates of election prescribed in section 89.

Section 90. Whenever a quorum of the supreme court certifies to the governor that it is unable to dispose of pending cases with reasonable dispatch because of the death, disability or resignation of any justice, the governor shall designate a judge of one of the appellate courts to act as a justice of the supreme court and receive the salary paid a justice of that court until the vacancy is filled or the supreme court certifies to the governor that the disability is removed. Such designation shall not affect the term of such judge.

This section is new. Provisions permitting the designation of other judges to act with the Supreme Court in case of need are found in a number of other state constitutions. This provision does not permit additional judges to be assigned to aid the court, except in case of the "death, disability or resignation of any justice."

Section 91. The supreme court shall sit at the seat of government. A majority of the justices shall constitute a quorum and the concurrence of five shall be necessary for every decision.

The requirement that the Supreme Court sit at the seat of government is not in the constitution of 1870, but is now prescribed by statute. Art. 6, Sections 4, 5 and 8 of the present constitution provided for holding terms of the Supreme Court in three grand divisions, but Sec. 5 empowered the general assembly to abolish such divisions. In 1897 this power was exercised and since then the Supreme Court has held all of its terms at Springfield.

Article 6, Sec. 2 provides that four justices shall constitute a quorum and that the concurrence of four shall be necessary to every decision. The change in this section requiring the concurrence of five judges is an incident to the increase in the size of the court.

Section 92. The supreme court shall have original jurisdiction in cases relating to the revenue, in quo warranto, mandamus, habeas corpus, prohibition and other cases involving questions of great public importance and appellate jurisdiction in all cases.

This section increases the original jurisdiction of the Supreme Court as prescribed in Art. 6, Sec. 2 of the constitution of 1870 by adding thereto

jurisdiction in quo warranto, prohibition, and "other cases involving questions of great public importance." This section should also be read in connection with section 100.

Section 93. The supreme court shall have exclusive power to prescribe rules of pleading, practice and procedure in all courts; but rules not inconsistent therewith may be prescribed respectively by other courts of record. Any rule of pleading, practice or procedure may be set aside by the general assembly by a special law limited to that purpose.

This section is new. The Supreme Court and other courts have always had authority to determine certain detail of their procedure by rules, but the general power to regulate court procedure has been vested in the general assembly. The purpose of section 93 is to transfer this power to the Supreme Court. The exercise of this power is to be subject to the check that any such rule may be set aside by the general assembly, but that body will have no power to enact any rule in substitution for a rule thus set aside.

For other provisions relating to the rule making power see sections 100, 122, and Schedule, section 27.

Section 94. The supreme court shall appoint its clerk and a reporter of its decisions for terms of six years each subject to removal by the court.

The constitution of 1870 in Art. 6, Sec. 9 provides that the Supreme Court shall appoint one reporter of its decisions who shall hold office for six years, subject to removal by the court. Art 6, Sec. 10 provides for the popular election of a clerk of the Supreme Court for each of the three grand divisions, for a term of six years. Since the abolition by law of the three grand divisions in 1897, one clerk of the Supreme Court has been elected for the state as a whole. Section 94 makes no change with reference to the reporter but provides for the future appointment of the clerk by the court. Section 9 of the Schedule continues during the term for which he has been elected, the clerk of the Supreme Court in office at the time of the adoption of the new constitution.

Appellate Courts

Section 95. There shall be an appellate court of the first district, an appellate court of the second district, an appellate court of the third district and an appellate court of the fourth district. They shall be of uniform jurisdiction and have such districts and sit at such places as provided by law.

Article 6, Sec. 11 of the constitution of 1870 authorized the general assembly to create inferior appellate courts after the year 1874, and provided that such appellate courts shall be held by judges of the circuit courts. Appellate courts were established by law in 1877, with four appellate districts and with circuit judges designated by the Supreme Court to sit in the appellate courts. Three judges compose each appellate court, except that branches, of three judges each, are authorized for the appellate court in Cook County. Section 95 follows the present statute in setting up four

appellate courts, and follows Art. 6, Sec. 11 in providing that these courts shall have uniform jurisdiction and shall be composed of such districts and sit at such places as provided by law.

Section 96. Each appellate court shall consist of three judges or such multiple of three as the supreme court may from time to time determine. In appellate courts of more than three judges the supreme court may assign the judges thereof to divisions of three judges each. Each division shall select a presiding judge and the presiding judges shall apportion the work of the court among the several divisions and perform such other administrative acts as may be necessary.

This section is new. It follows the present statute in providing that the appellate courts shall consist of three judges and in authorizing divisions of three judges each.

Section 97. Judges of appellate courts shall be appointed by the supreme court. The terms of judges of appellate courts shall be six years and shall expire in the first district on December thirty-first, nineteen hundred twenty-eight, and in the other districts on December thirty-first, nineteen hundred twenty-seven, and every six years thereafter respectively, except that judges appointed to newly created divisions shall hold office only until the last day of the pending term for appellate judges. On or before January first, nineteen hundred twenty-nine, in the first district and January first, nineteen hundred twenty-eight, in the other districts and every six years thereafter judges of all the appellate courts shall be appointed. The supreme court for cause shown of record may remove any judge of an appellate court.

Under Art. 6, Sec. 11 of the constitution of 1870 appellate courts are held by circuit judges. Section 97 departs from this plan and provides for the appointment of judges of the appellate courts by the Supreme Court for six year terms, and authorizes the Supreme Court for cause shown of record to remove any judge of an appellate court. The Supreme Court may appoint any qualified member of the bar, but if it appoints a judge of the circuit court, such an appointment will be to a new office and will vacate the position of circuit judge.

Section 10 of the schedule continues in office until 1929 the judges of the circuit and superior courts of Cook County now serving as judges of the appellate courts. This section of the schedule on the other hand provides that judges of other appellate districts shall be appointed as soon as may be after the adoption of this constitution.

Section 98. The appellate courts shall hold such sessions as the supreme court may direct.

This section in its present form is new. Art. 6, Sec. 11 of the constitution of 1870 provides that appellate courts shall be held "at such times" and "in such manner as may be provided by law." Section 98 transfers control over these matters from the general assembly to the Supreme Court, in accordance with the general plan of making the courts largely independent of legislative authority.

Section 99. Each appellate court shall appoint its clerk for a term of six years subject to removal by the court.

This section is new. The matter is now regulated by statute and clerks are elected in each appellate court district, Section 9 of the Schedule continues, during the term for which they were elected, the appellate clerks in office at the time of the adoption of the new constitution.

Appeals and Writs of Error

Section 100. Appeals from and writs of error to circuit and county courts may be prosecuted in all cases as follows: (a) to or from the supreme court in all criminal cases where the punishment allowed by law may be death or imprisonment in the penitentiary and in cases where a franchise or a freehold or the validity of a statute is involved, (b) to or from the appellate courts in such other cases as may be prescribed by general rule of the supreme court and (c) to or from the supreme court in all other cases. Except as above limited the supreme court by general rule may prescribe the final jurisdiction of appellate courts unless otherwise provided by law.

Section 100 divides cases into three classes for purposes of appeal.

First: It gives an appeal as a matter of right directly from the trial court to the Supreme Court in those cases specified in clause (a).

Second: By clause (b) it empowers the Supreme Court to determine by rule in what other cases appeals shall be from the trial court to the appellate court in the first instance. The last sentence of the section empowers the Supreme Court to determine in which of such cases the jurisdiction of the appellate court shall be final and in which cases a further appeal shall be allowed to the Supreme Court. This power is subject to the condition that the general assembly may provide for or deny the right of an appeal from the appellate court to the Supreme Court in any or all such cases.

Third: Under clause (c) appeals directly from the trial court to the Supreme Court are authorized in all cases other than those enumerated in clause (a) and those in which the Supreme Court has not by rule under clause (b) provided for an appeal to the appellate court. The cases falling within clause (c) will be entirely under the control of the Supreme Court, through its power to determine in what cases appeals shall lie in the first instance to the appellate court under clause (b)

Under section 92 of the proposed constitution the Supreme Court is given appellate jurisdiction in all cases. The effect of section 100 is to vest power in the Supreme Court to apportion this jurisdiction between itself and the appellate courts, subject to the limitations above noted.

In the constitution of 1870, Sections 2, 11 and 19 of Article 6 deal with the subject of judicial appeals. Section 2, like section 92 of the proposed constitution, prescribes the original jurisdiction of the Supreme Court and provides that it shall have appellate jurisdiction in all other cases.

Section 11 enumerates several classes of cases in which appeals shall lie to the Supreme Court from the appellate courts, if jurisdiction on appeal be given first to the appellate court in such cases. The effect of this provision is to permit an appeal to the Supreme Court in such cases as a matter of right, but the general assembly has the power to determine whether such

appeals shall be directly to the Supreme Court in the first instance or shall lie first to the appellate court and then to the Supreme Court. In the exercise of this power the general assembly has provided that all cases covered by the specific enumerations in Sec. 11, except misdemeanors, may be appealed directly to the Supreme Court. Clause (a) of section 100 merely continues what is now a statutory right of direct appeal in such cases.

Under the constitution of 1870, the general assembly has power to determine in what cases and to what courts appeals shall lie except as this power is expressly limited with respect to the classes of cases enumerated in Article 6, Section 11. In exercising this power, the general assembly has provided for direct appeals to the Supreme Court in certain cases in addition to those mentioned in clause (a) of section 100, and in other cases it has provided for appeals to the appellate court. The decisions of the appellate courts are in fact final in most cases, although the right of further appeal to the Supreme Court exists under certain circumstances. Clause (b) of section 100 transfers from the general assembly to the Supreme Court the power to regulate all appeals not governed by clause (a), subject to the power of the general assembly to control the final jurisdiction of appellate courts. Cases not included in clause (a) which now go on direct appeal to the Supreme Court will continue to do so under clause (c) unless the Supreme Court through the power conferred by clause (b) shall otherwise determine.

Appeals from county courts with respect to which the general assembly has express authority under Art. 6, Sec. 19 of the present constitution, are by the terms of section 100 governed by the same rules as appeals from circuit courts.

The term "appeals" as used in this discussion includes both appeals and writs of error.

Circuit Courts outside the County of Cook

Section 101. The state outside of the county of Cook shall be divided into judicial circuits formed of contiguous counties as compact in form and as nearly equal as circumstances permit having regard to business, territory and population. The number of such circuits shall not exceed one for every one hundred fifty thousand population except that a circuit may be formed of a county or contiguous counties having a population exceeding one hundred thousand if the business of the circuit court or courts therein occupies nine months of the year. Circuits may be changed by law but only at the first session of the general assembly after the adoption of this constitution and at any session next preceding an election for circuit judges. No such change shall affect the term of any judge.

The constitution of 1870 provided for the organization of circuit courts in the territory outside of Cook County on either of two plans. Under the first plan contiguous counties were to be formed into circuits having a population of not less than 100,000. Counties with a population of 100,000 were to be made separate circuits and whenever the business of any one or of two or more contiguous counties containing a population exceeding 50,000

occupied nine months of the year such county or counties could be formed into a separate circuit. (Art. 6, Sec. 13.)

Under the second plan the general assembly was authorized to form circuits having a greater population and territory than was specified for those that might be formed under the first plan. This is the only limitation with respect to the size of the circuit under this second plan. In each circuit the general assembly might provide for the election of not to exceed four judges. (Art. 6, Sec. 15.) The limitations of Section 13 relating to the time when new circuits may be formed or boundaries changed have been held to apply to such changes subsequent to the adoption of the second plan.

In 1877, the general assembly divided the state into the larger circuits authorized under Section 15 and provided for the election of three judges from each circuit. This plan of organization has continued since that date and is the one now in effect.

Sections 101 and 102 embody the essential features of the present three-judge circuit court plan, but the specific limitations relating to the manner in which circuits shall be formed, to the general requirement as to population therein and to the special circumstances under which less populous territory may be organized into separate circuits are new so far as they apply to this plan. The analogous limitations found in Art. 6, Sec. 13 of the present constitution applied only to the one-judge circuit plan therein provided for although it has been assumed that the constitution intended circuits compact in form and as nearly equal as circumstances will permit in other respects.

The provision relating to the time when circuits may be changed and to the terms of judges found in the last two sentences of section 101 are taken without substantial change from Art. 6, Sec. 13 of the present constitution. (See also Schedule, Sec. 28.)

Section 102. In every circuit there shall be elected in nineteen hundred twenty-seven and every six years thereafter three judges of the circuit court whose terms shall be six years from the date of their election.

The provisions relating to the election and terms of circuit judges are taken without substantial change from Art. 6, Sections 12 and 14, except that under section 136 the date of election is changed from June to November.

The provision for three judges in each circuit follows the present statute enacted under the authority of Art. 6, Sec. 15.

Section 103. In every such county there shall be a circuit court with original jurisdiction of all cases at law and in equity and such other jurisdiction as provided by law.

Article 6, Sec. 12 of the constitution of 1870 provides that the circuit courts "shall hold two or more terms each year in every county," and that they shall have "original jurisdiction of all causes in law and equity, and such appellate jurisdiction as is or may be provided by law." Section 103, like the present constitution, requires a circuit court in each county but

under section 104 the constitutional provision for terms is omitted. The substitution of the phrase "such other jurisdiction as provided by law" for "such appellate jurisdiction as is or may be provided by law" when read with sections 100 and 104 appears to preclude appeals from justices of the peace and county courts to the circuit courts as now provided.

Section 104. The circuit courts shall always be open for the transaction of business. The circuit court shall sit at the county seat of each county. If a city of more than fifty thousand population in any county provides and maintains suitable facilities for holding court, the circuit court shall also sit in such city. In any city wholly or partly in the county, whenever such city or part thereof has not less than five thousand population, a majority of the judges of the circuit may provide for holding sessions of court therein, if such city provides and maintains suitable facilities for holding court.

Article 6, Sections 12 and 14 of the constitution of 1870 provide for terms of the circuit court in each county. Section 104 requires that circuit courts always be open for the transaction of business, and leaves the matter of sessions in each county to be determined by rule by the Supreme Court.

The provisions of section 104 as to where the circuit courts shall sit are new. At present they are required by law to hold their sessions at the county seat. The provision for holding court in cities of more than 50,000 is intended to meet the situation which results from the abolition of city courts which now exist in certain cities. (See Schedule, Sec. 22.)

Circuit Court of Cook County

Section 105. The territory now comprising the county of Cook shall constitute one circuit and have a circuit court with original jurisdiction of all cases, matters and proceedings requiring judicial action and jurisdiction of appeals from justices of the peace.

Under the provisions of the constitution of 1870 (Art. 6, Sections 1, 18, 20, 23 and 26; and Art. 4, Sec. 34) and of legislation enacted thereunder, the following courts have been established and now exist in Cook County: The circuit court of Cook County with 20 judges; the superior court of Cook County with 20 judges; the criminal court of Cook County, presided over by judges of the circuit and superior courts who are ex-officio judges of the criminal court; the county court with one judge; the probate court of Cook County with one judge; the municipal court of Chicago with 37 judges; and the city court of Chicago Heights with one judge. The juvenile court is not an independent court from the constitutional standpoint but is a branch of the circuit court and is presided over by a circuit court judge.

The proposed constitution establishes but one court (other than justices of the peace) in Cook County (Sec. 105)—a circuit court with two divisions, civil and criminal (Sec. 109)—and provides (Schedule, Sec. 12) that on May 7, 1923, the seven courts above mentioned shall all be consolidated into the circuit court of Cook County and that thereupon such courts shall be abol-

ished. The offices of judge and clerk of the city court of Chicago Heights are also abolished. (Schedule, Sec. 12.)

The new plan provides for 58 circuit court judges, to be elected from time to time as the terms of the judges above mentioned expire. (Section 106 and Schedule, Sec. 13.) Judges of the circuit and superior courts sitting in the appellate court are made judges of that court and their positions as circuit and superior court judges are abolished. (Schedule, Sections 10 and 12.) The associate judges of the municipal court are continued as associate judges of the circuit court during the terms for which they were elected, at the expiration of which the office of associate judge is abolished. (Schedule, Sec. 13.) Section 14 of the Schedule defines the jurisdiction of such associate judges.

The new plan also provides for the consolidation of the clerks' offices of the superior, criminal, county, probate, and municipal courts with the office of the clerk of the circuit court (Schedule, Sec. 21); and for the consolidation of the office of the bailiff of the municipal court with the office of sheriff (Schedule, Sec. 25). The clerks whose offices are thus consolidated are continued in office as associate clerks during the terms for which they were elected (Schedule, Sec. 21); and the bailiff of the municipal court is likewise continued as associate sheriff. (Schedule, Sec. 25.)

Aside from creating the circuit court of Cook County, section 105 prescribes its jurisdiction which will be broader than that of other circuit courts so as to enable it to deal with all the various matters now within the jurisdiction of the several courts to be consolidated.

Section 105 should also be read in connection with Sec. 16 of the Schedule which continues the present statutory authority of the county judge in election matters during the term for which he is elected or until otherwise provided by law. The same section of the Schedule also provides that prior to July 1, 1925, the general assembly shall provide that all such authority of the county judge "shall devolve upon some elective county officer or officers."

Section 106. There shall be elected to the office of judge of the circuit court of Cook county on the first Monday of June, nineteen hundred thirty-one, nineteen judges as successors to the judges whose terms expire in that year; on the first Monday of June, nineteen hundred thirty-three, nineteen judges as successors to the judges whose terms expire in that year; and on the first Monday of June, nineteen hundred thirty-five, twenty judges as successors to the judges whose terms expire in that year. Thereafter on the first Monday of June of the year in which the terms of any judges of that court expire and every six years thereafter, successors to such judges shall be elected. Provision may be made by law for the election of an additional judge for every fifty thousand population in the county above three million four hundred thousand. The number of judges may also be reduced by law.

Section 106 provides definitely for the election of fifty-eight circuit judges in Cook County. The dates fixed supplement those fixed in Sec. 13 of the Schedule for the first elections under the new constitution. Art. 6, Sec. 23 of the constitution of 1870 provides that the general assembly may

add one judge for every additional 50,000 inhabitants in Cook County over and above a population of 400,000. Section 106 contains a similar provision for each 50,000 population above 3,400,000. The provision that the number of judges may also be reduced by law is new. The date of election of circuit court judges in Cook County is the first Monday of June; in other parts of the state it is the first Tuesday after the first Monday of November.

Section 107. Judges of the circuit court of Cook county shall be elected for terms of six years from the date of their election. At all elections for judges the ballots therefor shall be separate and distinct from the ballots for non-judicial officers.

The provision of this section as to term of office is identical with the last sentence of Art. 6, Sec. 23 of the constitution of 1870. The second sentence of this section is new although by statute separate judicial ballots are now provided in certain cases.

Section 108. The circuit court of Cook county shall sit in the city of Chicago but provision may be made by law for holding sessions in other cities, villages or incorporated towns in the county having a population of at least five thousand whenever suitable facilities for holding court are provided and maintained without expense to the county or state.

This section is new. It is intended to facilitate the administration of justice in outlying parts of the county.

Section 109. The supreme court shall establish a civil division and a criminal division of the circuit court of Cook county. The supreme court from time to time shall assign judges to service in the two divisions and shall designate a judge to act as chief justice of each division who shall have such administrative power and authority as may be provided by the supreme court.

This section is new. It is a part of the general plan for a single court with two divisions. Art. 6, Sec. 24 of the constitution of 1870 provides that the judges of the circuit and superior courts of Cook County having the shortest unexpired terms shall be the chief justices thereof; and that any judge shall have all the powers of a circuit judge and that each of them may hold a different branch of such court at the same time. These latter provisions have been omitted in the revision and the Supreme Court is given the power to assign judges to service in either the civil or criminal division of the new circuit court and to vest the chief justice of each division with "such administrative power and authority" as it may see fit. (See Schedule, Sec. 14, for powers of associate judges of circuit court during the continuance of that office.)

Section 110. The supreme court may authorize the chief justices of the civil and criminal divisions jointly, by and with the advice and consent of a majority of the judges of the court, to appoint assistants who shall have such judicial or other powers and duties in respect to the business before the court as the supreme court may prescribe.

The salaries of such assistants shall be fixed by the county board and paid out of the county treasury.

This section is new.

Section 111. Electors of the county of Cook equal in number to one-tenth of the total vote cast for president of the county board at the last preceding election may file in the circuit court a petition to submit to a vote the proposition whether the county shall adopt the system hereinafter provided for the appointment of the judges of the circuit court. Thereupon the chief justice of the civil division of that court by an order entered of record shall call a special election for submitting such proposition within three months after such order is entered. If the proposition is approved by a majority of those voting thereon such chief justice shall declare it adopted. If it is disapproved it shall not again be submitted for six years. Upon the adoption of the proposition the judges in office shall continue in office until removed as herein provided. After the adoption of the proposition the manner of choosing judges of that court shall be as follows: The governor shall fill any vacancy in that court by appointment from a list containing the names of not less than four eligible persons for each vacancy, nominated by a majority of the supreme court, not more than one-half of such persons to be affiliated with the same political party. Thereafter each judge shall hold his office during good behavior subject to removal as herein provided. On the first Monday in June in the sixth year after the election or appointment of every judge, or in the seventh year if the sixth is an even numbered year, and on the same date in every sixth year thereafter the electors of the county shall be given an opportunity at an election to express their disapproval of such judge. If a majority of those voting at any such election disapproves of any judge his office shall become vacant at the end of three months after the election and for a period of six years thereafter he shall be ineligible to appointment as a judge of such court; if such judge is not disapproved, he shall continue in office and begin a new term on the day of such election. All elections under this section shall be conducted in the manner prescribed by law.

This section is new. Its purpose is to permit the substitution of a system of appointment for that of election of the circuit judges of Cook County. The appointive system cannot be adopted without a popular vote, and if once rejected cannot be again submitted for six years. If it is adopted the governor is authorized to fill any vacancy by appointment from a list containing the names of not less than four eligible persons nominated by a majority of the Supreme Court. Not more than one-half of the persons so nominated are to be affiliated with the same political party. The judges so appointed are to hold during good behavior unless removed as a result of popular vote. Each six years the voters are to be given an opportunity to disapprove of any judge, and if they so disapprove, he is removed.

Section 112. After five years from the adoption of this constitution the general assembly may divide the circuit court into, and the jurisdiction thereof between, two courts both of which shall be

governed by the provisions of this article so far as applicable. No act providing therefor shall become effective until approved by a majority of those voting on the question at a general election in the county of Cook.

This section is new. It permits the general assembly, after five years and subject to approval on a popular vote, to establish two courts in Cook County in place of the single court with two divisions created by sections 105 and 109.

County Courts

Section 113. In each county except the county of Cook there shall be elected in nineteen hundred twenty-seven and every six years thereafter a judge of the county court except that contiguous counties may by law be made a district in which one judge shall be elected for all county courts in the district. An additional judge shall be elected for every fifty thousand population or major portion thereof in a county or district above a population of fifty thousand. The term of every county judge shall be six years from the date of his election.

Article 6, Sec. 18 of the constitution of 1870 provides for county courts (each with one judge) and Art. 6, Sec. 20 authorizes the general assembly to establish probate courts (each with one judge) in counties having a population of over 50,000. Probate courts have been established in counties of 70,000 or more inhabitants.

The plan of the proposed constitution is to consolidate the probate courts with the county courts in counties outside of Cook, and to provide two or more county judges where the business of the court requires.

Section 113 is taken largely from Art. 6, Sec. 18. The term of county judge is extended from four to six years. The provision for additional judges is new and is intended to meet the situation above described.

In accordance with the plan above outlined section 17 of the Schedule consolidates county and probate courts on December 3, 1923.

Section 18 of the Schedule abolishes the office of probate judge upon consolidation but makes the county and probate judges then in office judges of the county court until the expiration of their terms. Counties of less than 75,000 population with both a county and a probate judge at the time of the adoption of the constitution will elect two county judges in 1927.

Section 19 of the Schedule prescribes a salary basis for county judges beginning December 3, 1923, unless the general assembly shall fix a salary schedule for them.

Section 20 of the Schedule provides that the restriction of section 128 as to practicing law and receiving compensation other than their salary shall not apply to county and probate judges until December 3, 1923, unless the general assembly shall fix salaries for them prior to that date. Salaries of county and probate judges are now fixed by county boards and in some cases are as low as $300 per year. Section 20 of the Schedule provides in effect that county and probate judges receiving relatively small salaries shall not be subject to the restrictions of section 128 before increased salaries become payable to them.

Section 114. In every such county there shall be a county court which shall have (a) original jurisdiction of all matters of probate, guardianship, conservatorship and apprenticeship, the administration and settlement of estates of deceased persons and proceedings for the sale of real estate where required for the administration and settlement of such matters or estates, proceedings relating to taxes and assessments and their collection, and criminal cases below the grade of felony, (b) concurrent jurisdiction with the circuit courts in testamentary trusts, construction of wills and partition of real estate where any such proceeding is incidental to its original jurisdiction, (c) exclusive jurisdiction of appeals from justices of the peace and (d) such other jurisdiction as provided by law.

Article 6, Sec. 18 of the constitution of 1870 prescribes the jurisdiction of county courts. Art. 6, Sec. 20 prescribes the jurisdiction of probate courts. As a matter of fact, the jurisdicition of the probate court, when such court has been established in any county, has constituted substantially a subtraction of probate jurisdiction from the authority previously exercised by the county court. Section 114 prescribes the jurisdiction of the consolidated county court described in the comments under section 113. In the statement of this jurisdiction certain matters have been added to the provisions of the constitution of 1870. The word "administration" and the words "proceedings for the sale of real estate where required for the administration and settlement of such matters or estates" have been added in clause (a). Clauses (b) and (c) are new. Clause (d) is merely, in a slightly different form, the latter part of Art. 6, Sec. 18 authorizing "such other jurisdiction as may be provided for by general law." The provisions of clause (b) have been inserted in section 114, because of the desirability that courts having probate jurisdiction should have authority with respect to testamentary trusts, construction of wills and partition of real estate in certain cases. The term "probate jurisdiction" has been expressly held by the Supreme Court not to include testamentary trusts. The language of clause (b) and the changed language of clause (a) are intended to make certain that the court having probate jurisdiction shall have complete authority relating to the administration of estates.

Section 115. County courts shall always be open for the transaction of business. The court shall sit at the county seat and shall also sit in cities in the county of twenty thousand population or more whenever suitable facilities for holding court are provided and maintained without expense to the county or state.

This section is new.

Justices of the Peace

Section 116. Justices of the peace and constables outside the county of Cook shall be elected or appointed in such towns or districts and such justices of the peace shall have such uniform jurisdiction as provided by law. They shall receive salaries from their respective towns or districts to be fixed by the county board.

Section 116 is largely a revision of Art. 6, Sec. 21 of the constitution of

1870 which provides that (except in the city of Chicago) justices of the peace, police magistrates and constables shall be elected in such "districts" as may be provided by law. The new section excludes not only the city of Chicago but also the remainder of Cook County from its operation. (See Sec. 117.) The provisions with respect to appointment; as to "towns"; and as to the payment of salaries are new. Police magistrates, who are in fact justices of the peace, are not mentioned in the revision. Art. 6, Sec. 32 of the present constitution fixes the terms of justices and constables at four years. No term is prescribed by section 116. (See also Schedule, Sec. 23.)

Section 117. The chief justice of the civil division of the circuit court of Cook county shall appoint a justice of the peace and a constable in each town or portion of town in the county outside the city of Chicago, each of whom shall hold office for two years unless sooner removed by such chief justice for cause shown of record. An additional justice of the peace and constable may be appointed in every such town or portion of town for every additional ten thousand population therein or major portion thereof above a population of ten thousand. Such justices of the peace shall have the same jurisdiction and such constables shall perform the same duties in the part of the county of Cook outside the city of Chicago as like officials in the rest of the state. The salaries of such justices of the peace and constables shall be fixed by the county board and paid by the county.

Justices of the peace and constables in Cook County, outside the city of Chicago are now elected for terms of four years under the provisions of Art. 6, Sections 21 and 32 of the constitution of 1870. They are paid from such fees as they may collect. Section 117 is new and provides a substitute method for selecting and compensating these officers in that territory.

Justices of the peace and constables in the city of Chicago were abolished in 1905 by the act creating the municipal court of Chicago. (See also Schedule, Sec. 23.)

Section 118. The offices of justice of the peace and constable or either of them may be abolished or restored in any town or district (or in any town or portion of a town in the county of Cook or in that part of the county of Cook outside the city of Chicago as a whole) by a majority vote of the electors thereof voting on the question as provided by law.

This section is new. Justices of the peace in the city of Chicago were abolished in 1905 under authority granted by Art. 4, Sec. 34 of the present constitution and no provision for justices of the peace within the city is contained in the proposed new constitution. Section 118 relates to the abolition of justices of the peace and constables in other parts of the state.

State's Attorneys

Section 119. There shall be a state's attorney elected in each county in nineteen hundred twenty-four and every four years thereafter for a term of four years from the first Monday of December next

after his election. At the time of his election or appointment he must be licensed to practice law in this state.

The first sentence of this section is taken without substantial change from Art. 6, Sec. 22 of the constitution of 1870. The last sentence is new.

General Provisions

Section 120. Laws relating to courts having the same jurisdiction and to the force and effect of the process, judgments and decrees of such courts severally shall be uniform.

This section is taken without substantial change from Art. 6, Sec. 29 of the constitution of 1870. Sections 95, 116 and 117 contain provisions concerning uniform jurisdiction of appellate courts and of justices of the peace. Section 105 gives the circuit court of Cook County a broader jurisdiction than that of any other trial court. Under section 120 laws applicable only to this court may be passed since no other court has the same jurisdiction.

Section 121. The general assembly, upon due notice and opportunity for defense and for cause entered upon the journal of each house, may remove any justice or judge upon concurrence in each house of three-fourths of its members elected. All other officers mentioned in this article shall be removed from office on conviction for misdemeanor in office.

This section is taken without substantial change from Art. 6, Sec. 30 of the constitution of 1870.

Section 122. Provision may be made by rule of the supreme court for the bringing of actions or proceedings in which a merely declaratory judgment or decree or order is sought and for authorizing the court to make a binding declaration of right whether or not any consequential relief may be claimed.

This provision is new. It is intended to make certain that authority to render declaratory judgments shall not be held to contravene the principle of separation of powers set forth in section 20.

Section 123. Process shall run: In the name of the People of the State of Illinois. Prosecutions shall be carried on: In the name and by the authority of the People of the State of Illinois; and shall conclude: Against the peace and dignity of the People of the State of Illinois.

This section is substantially the same as Art. 6, Sec. 33 of the constitution of 1870.

Section 124. Justices of the supreme court and judges of the appellate and circuit courts shall be at least thirty-five years of age and for at least ten years shall have been licensed to practice law in this state and for such time in this state shall have been engaged in the practice of law or acted as judicial officers or both. Judges of the

county courts shall be at least thirty years of age and for at least five years shall have been licensed and had like experience.

In the constitution of 1870, Art. 6, Sec. 3 prescribes the qualifications for justices of the Supreme Court, and Art. 6, Sec. 17, the qualifications for judges of the circuit or any inferior courts. Section 124 raises the age qualification for justices of the Supreme Court from thirty to thirty-five years, and makes the same requirement for judges of the appellate and circuit courts, raising the circuit court age from twenty-five to thirty-five. For county judges the age requirement is raised from twenty-five to thirty. Five years' residence qualification in this state is prescribed for Supreme, circuit and inferior court judges by Art. 6, Sections 3 and 17. The new provision requires that judges of the Supreme, appellate and circuit courts shall have been licensed to practice law in this state for ten years "and for such time in this state shall have been engaged in the practice of law or acted as judicial officers or both." This provision really extends the residence qualification from five to ten years, and adds the qualification regarding the practice of law or service as judicial officers. County judges are, under the constitution of 1870, governed by Art. 6, Sec. 17, requiring the age of twenty-five years, citizenship of the United States and five years' residence in this state. For them the age qualification has been raised to thirty years, the five years' residence qualification is preserved in fact, and the legal or judicial experience for that term is added. For general residence requirements as to all officers see section 195.

Section 125. Judicial officers shall be commissioned by the governor and the appointing power to fill vacancies in elective judicial offices shall be vested in him except as otherwise provided herein.

The provision that judicial officers shall be commissioned by the governor is taken from Art. 6, Sec. 29 of the constitution of 1870. The provision regarding vacancies is taken from Art. 6, Sec. 32, which, however, applies to certain officers named in the article on judicial department, but who are not "judicial" officers, and is therefore broader in its terms than section 125. State's attorneys and constables are not judicial officers although provided for in the article on judicial department. Apparently the general assembly will be required to make provision for filling vacancies in these offices.

Section 126. The officers of the judicial department shall reside in the district, circuit or county for which they are respectively elected or appointed.

This section consolidates without substantial change provisions found in Art. 6, Sections 3, 17 and 32, except that the scope of Sec. 32 may be here restricted in somewhat the same manner as by section 125.

Section 127. Justices of the supreme court and judges of the appellate, circuit and county courts shall be paid salaries by the state which shall be uniform for the several courts except county courts. In the county of Cook judges of the appellate and circuit courts shall each receive the salary paid such judges respectively in the rest of the

state and such further compensation from the county of Cook as provided by law.

Analogous provisions regarding salaries of Supreme Court and circuit judges are found in Art. 6, Sections 7, 16 and 25 of the constitution of 1870. The provisions of section 127 are new in so far as they relate to county courts, and permit variations in salaries of county judges.

Section 128. No justice of the supreme court or judge of any court of record so long as he holds such office shall receive any compensation, perquisite or benefit other than his salary or engage in the practice of law.

Article 6, Sec. 16 of the constitution of 1870 prohibits judges of the Supreme and circuit courts from receiving any other compensation, perquisite or benefit and prohibits their performing "any other than judicial duties to which may belong any emoluments." Section 128 expresses the same purpose with respect not only to Supreme and circuit judges but also to the judges of any other courts of record. This extends the provision to county judges. The express prohibition against the practice of law by judges is new, although the constitution of 1870 clearly denies to Supreme and circuit court judges the right to practice law or any other profession. It has not been uncommon for county judges in many counties to engage in the practice of law. The new provision is directed against this custom. Section 19 of the Schedule provides for a scale of salaries of county judges, and section 20 of the Schedule postpones the application of section 128, until the new schedule of salaries comes into effect, unless the general assembly makes earlier provisions for increased salaries.

Section 129. Whenever the supreme or appellate court districts are changed they shall be formed of contiguous counties as compact in form and as nearly equal in population as may be. No such change shall affect the term of any justice or judge.

This section is taken without substantial change from Art. 6, Sec. 5, except that the provision relating to the formation of Supreme Court districts has been extended to appellate court districts.

Section 130. The supreme court may temporarily assign judges of the appellate courts from one district to another and judges of the circuit courts from one circuit to another.

This provision is new, but by statute interchange of judges is now permitted.

Section 131. If a judge of any circuit or county court is appointed judge of an appellate court, the vacancy so caused in the circuit or county court shall be filled by appointment by the supreme court. The judge so appointed to the circuit or county court shall serve until his successor is elected and qualified.

This section is new and is an incident to the power of the Supreme Court to appoint judges of the appellate courts. In order to avoid elections to fill vacancies in the circuit and county courts in cases where judges sitting in those courts are appointed to the appellate courts, the Supreme Court is here given power to fill such vacancies by appointment.

ARTICLE VI

SUFFRAGE AND ELECTIONS

Section 132. Excepting only idiots and persons adjudged insane or convicted of infamous crime and not restored to civil rights, every citizen of the United States above the age of twenty-one years who has resided in the state one year and (unless naturalized because of military or naval service) in the United States five years shall be a qualified elector. He may vote only in the election district and county in which he has resided thirty and ninety days respectively next before such election.

This section is taken largely from Art. 7, Sections 1 and 7 of the constitution of 1870. In the revision certain obsolete matter has been omitted and several other changes have been made. By the omission of the word "male" the right to vote is expressly given to all citizens. This change of course merely recognizes an existing state of affairs resulting from the adoption of the Nineteenth Amendment to the United States Constitution.

The phrase "idiots and persons adjudged insane" is new but adds nothing to the meaning of the present constitution as construed by the Supreme Court.

The requirement of a five-year residence in the United States is new and apparently is intended to carry into the Illinois constitution the provision of the Federal naturalization law requiring five years' residence to acquire citizenship. The new clause, however, will probably require a native-born citizen, who abandons his residence and goes abroad, to re-establish a five-year residence upon his return before he can vote.

The Committee on Phraseology and Style reports that the revision is intended to make an absentee voting law clearly constitutional. It is a serious question, however, as to whether the language used—that a voter "may vote only in the election district and county in which he has resided thirty and ninety days respectively next before such election"—may not prevent absentee voting.

Section 133. No person shall be deemed to have lost his voting residence because of absence in the service of the state or the United States or to have gained a voting residence because he has been stationed as a soldier, seaman or marine in this state.

This section consolidates without substantial change Sections 4 and 5 of Art. 7 of the constitution of 1870.

Section 134. Votes shall be by ballot.

This section is identical in substance with Art. 7, Sec. 2 of the constitution of 1870.

Section 135. Except for treason, felony or breach of the peace electors shall be privileged from arrest during attendance at and in going to and returning from elections. Militia duty shall not be re-

quired of electors on election days except in time of war or public danger.

This section is identical in substance with Art. 7, Sec. 3 of the constitution of 1870.

Section 136. In that part of the state outside the county of Cook no final election of officers, except justices of the supreme court in the district of which the county of Cook is a part, shall be held save on the first Tuesday after the first Monday of November which shall be a holiday; but after the first day of January, nineteen hundred twenty-seven, the general assembly by a vote of two-thirds of the members elected to each house may provide for the election of officers at other times.

This section, which provides for but one election each year, is new. It does not apply in Cook County, or to the election of justices of the Supreme Court in the district of which Cook County is a part.

Section 137. Every vacancy in an elective office which would continue a year or more beyond the first regular election occurring after ninety days shall be filled at such election; but such vacancy prior to the qualification of the person elected and all other vacancies may be filled by appointment.

This section is new. It provides in general terms the manner in which vacancies in elective offices shall be filled when no other provision has been made. (See sections 26, 80, 125, 131.) It does not provide by whom appointments may be made and legislative action will be necessary to make it effective.

Section 138. This article shall apply to all elections under this constitution or other law.

This section is new. In Scown v. Czarnecki, 264 Ill. 305 (1914), the Illinois Supreme Court took the view that the suffrage qualifications prescribed in the constitution of 1870 did not apply in elections to offices created by statute. Section 138 overcomes the effect of this decision and makes all the provisions of the suffrage article (sections 132-138) applicable to all elections, whether the office is provided for by the constitution or by statute.

ARTICLE VII

REVENUE AND FINANCE

Revenue

Section 139. The power of taxation shall never be surrendered, suspended or contracted away. All taxes shall be levied and collected only under general law and for public purposes. Taxes levied for state purposes shall never be released, discharged or commuted. The specification herein of objects and subjects of taxation

shall not deprive the general assembly of the power to require other objects or subjects to be taxed in such manner as may be consistent with the principles of taxation fixed in this constitution.

The express provision that the power of taxation shall never be surrendered, suspended or contracted away is new, but is clearly implied in the constitution of 1870.

The second sentence of this section is also new. The provision that taxes shall be levied and collected only under general law merely states the rule now implied and in effect under the constitution of 1870. Sections 178 and 182 appear to read an exception into this section and to permit special tax laws for the city of Chicago, subject to local consent.

The provision of this sentence limiting taxes to "public purposes" states an existing and a well-recognized principle of Federal and state constitutional law.

The provisions of the last two sentences of this section are taken, without substantial change, from Art. 9, Sec. 6, and Art. 9, Sec. 2, respectively, of the constitution of 1870.

Section 140. Taxes may be imposed on privileges, franchises and occupations, uniform as to class.

This section contains in abbreviated form substantially the provision of Art. 9, Sec. 1, of the constitution of 1870, with respect to the taxation of privileges, franchises and occupations.

Section 141. The general assembly shall provide for the levying of taxes upon property by valuation so that every person or corporation shall pay a tax in proportion to the value of his or its property, such value to be ascertained by some person or persons to be elected or appointed in such manner as the general assembly shall direct and not otherwise.

This section is substantially the same as the first part of Art. 9, Sec. 1 of the constitution of 1870.

Section 142. In lieu of any tax on intangible property or any kind or class thereof, by valuation, the general assembly may provide a uniform and substantial tax on the income derived therefrom. The rate of such tax shall be uniform on all incomes taxed under this section.

This section is new. Its purpose is to permit the general assembly to substitute with respect to intangible property or any class of such property an income tax for the tax by valuation otherwise required by section 141. The rate of tax under this section must be uniform as to all incomes taxed. It will be noted that a "substantial" tax is required. What constitutes such a tax will present a question to be determined by the general assembly in the first instance, subject to review by the courts.

Section 143. A general income tax may be imposed upon all net incomes. If such income tax is graduated and progressive the highest rate shall not exceed three times the lowest rate.

This section is new. It authorizes the general assembly to impose a general income tax upon all net incomes. The income tax under this section will be in addition to the other taxes required or permitted by sections 140, 141 and 142. It differs in this respect from the income tax on intangibles authorized by section 142 in that such tax is to be merely a substitute for the tax by valuation otherwise required on that class of property. The general income tax, under section 143, may be graduated and progressive, but in that event the highest rate must not exceed three times the lowest rate. In this respect it is unlike the tax under section 142 which must be on the basis of a uniform rate.

It should be noted in connection with this section that, under section 145, the general assembly may authorize deductions from a general income tax to compensate for other taxes paid under sections 140, 141 and 142; also that in the event of levying a general income tax the general assembly may exempt, from the general property tax, all household furniture and the implements of agriculture and labor without limit as to amount, and, from the general income tax, income derived from personal service to an amount of "not to exceed one thousand dollars to the head of a family plus two hundred dollars for each dependent child, under the age of sixteen years, and not to exceed five hundred dollars to any other person."

Section 144. Taxes on incomes shall be levied and collected only by the state. The revenue raised under the general income tax shall be apportioned to the state and to the taxing bodies as the general assembly may prescribe. Of the revenue raised under any income tax imposed under section one hundred forty-two of this constitution there shall be used for state purposes the same percentage as is used from the total revenue from taxes by valuation and the residue shall be returned to the respective counties from which it was collected to be distributed among the taxing bodies thereof as provided by general law.

This section is new. It gives the general assembly complete discretion as to the apportionment of the general income tax collected under section 143; but lays down a definite rule as to the apportionment of the income tax on intangibles, authorized by section 142. It carries out the theory that the income tax on intangibles is merely in substitution for a property tax, and provides for the same apportionment as that provided with respect to the property tax.

Section 145. Exemptions and deductions may be allowed as follows and not otherwise:

First, the following classes of property and the income therefrom may be relieved by general law from taxation; (1) public property; (2) household furniture used as such up to five hundred dollars in value; (3) parsonages owned and used as such; (4) property used exclusively for (a) agricultural and horticultural societies not organ-

ized for pecuniary profit, (b) incorporated societies of war veterans, (c) cemeteries not held for private profit and (d) school, charitable or religious purposes.

Second, if a general income tax is imposed as authorized in section one hundred forty-three of this constitution, the general assembly may provide for; (1) an exemption of all household furniture and implements of agriculture or labor used as such without limit as to amount; (2) an exemption from income derived from personal service of not to exceed one thousand dollars to the head of a family plus two hundred dollars for each dependent child under the age of sixteen years, and not to exceed five hundred dollars to any other person; (3) such deductions as shall compensate for taxes paid on property from which the taxed income is derived or for income tax paid in lieu of a tax by valuation or for taxes paid under section one hundred forty of this constitution.

Authority to exempt from taxation is found in Art. 9, Sec. 3 of the constitution of 1870. The first part of section 145 leaves the existing constitutional authority as to such exemptions substantially intact and adds the following classes of property to those that may now be exempted: "household furniture used as such up to five hundred dollars in value"; "parsonages owned and used as such"; property used exclusively for "incorporated societies of war veterans." This part of the section as revised also permits the exemption of income from taxation in all cases where the property itself may be exempt.

The second part of this section applies only in case a general income tax is imposed under section 143.

Section 146. Areas devoted to forests or forest culture may be classified for or exempted from taxation.

This section is new. It should be read in connection with section 57 authorizing the passage of laws to encourage forestry.

Section 147. No contract, obligation or liability whatever of the Illinois Central Railroad Company to pay any money into the state treasury, nor any lien of the state upon, or right to tax property of, that company, in accordance with the provisions of the charter of that company, approved February tenth, in the year one thousand eight hundred fifty-one, shall ever be released, suspended, modified, altered, remitted, or in any manner diminished or impaired by legislative or other authority; and all moneys derived from that company after the payment of the state debt shall be appropriated and set apart for the payment of the ordinary expenses of the state government, and for no other purpose whatever.

This section is identical in substance with a separately submitted section of the constitution of 1870 regarding the contract with the Illinois Central Railroad.

Section 148. The general assembly may vest the corporate authorities of cities, villages, incorporated towns and park districts,

jointly or severally, with power to make local improvements by special assessment, by special taxation of contiguous property or otherwise.

Article 9, Sec. 9 of the constitution of 1870 authorizes special assessments by "cities, towns and villages." By construction, the Supreme Court has authorized special assessments by park districts. The words "and park districts" in this section, therefore, add nothing to the meaning of the present constitution. The words "jointly or severally" have been added for the purpose of overcoming the decision in Loeffler v. City of Chicago, 246 Ill. 43 (1910) to the effect that two or more municipalities may not unite to make improvements by special assessment.

The language of the constitution of 1870 is "by special assessment or by special taxation of contiguous property or otherwise." This was held in Kuehner v. City of Freeport, 143 Ill. 92 (1892) to prevent the combination of special assessments and special taxation in making a local improvement. The first "or" has been omitted in the revision of this clause, apparently on the ground that this change will authorize the combination of special taxation and special assessments. In the Kuehner case the Supreme Court based some of its reasoning upon the omitted "or," but it is likely that the same decision would have been rendered even in the absence of that word. The omission of the word from the revision probably does not affect the meaning of the clause.

Section 149. No owner of real estate shall be divested of title for default in payment of general or special taxes or assessments except upon sale by the county treasurer or by forfeiture to the state and in either case only after judgment of a court of record entered after notice as provided by law. Not less than two years shall be allowed to redeem from such sale or forfeiture. The general assembly may provide that the holder of a tax title based on any tax sale hereafter made may waive claim of title to the land sold and be subrogated to the lien for the tax or assessment for which the sale was made and proceed in equity to foreclose such lien with additional penalties as provided by law.

The subject of tax sales is dealt with in the constitution of 1870 in Art. 9, Secs. 4 and 5. The provisions of these sections have been substantially changed by section 149 of the proposed constitution. The words relating to "forfeitures" are new, and are apparently intended to permit the state to substitute for the present plan of "tax sales" to individuals a plan under which the state itself would handle directly the enforcement of delinquent tax collections. The specific provisions of sections 4 and 5 relating to notice have been omitted and this subject has been left entirely within the control of the general assembly. The provision permitting a tax buyer to waive his tax title and to proceed through foreclosure to have the property sold by a court and the proceeds of the sale distributed to him and the owners of the property is new and is intended to facilitate tax collections and at the same time to protect the equities of owners. Present provisions relating to the necessity of a judgment of a court of record prior to a tax sale and to the period of redemption are unchanged in the revision. The words "county treasurer" are substituted for "some general officer of the county having

authority to receive state and county taxes" but this change will not affect the present practice.

Section 150. The general assembly shall not impose taxes (except income taxes as authorized in this article) in municipal corporations for corporate purposes but may vest the corporate authorities thereof with authority to assess and collect taxes for all corporate purposes and shall require that all the taxable property within the limits of municipal corporations shall be taxed for the payment of debts contracted under authority of law. Private property shall not be liable for such debts. Taxes imposed by municipal corporations shall be uniform as to persons and property.

This section consolidates without substantial change provisions found in Art. 9, Sections 9 and 10 of the constitution of 1870.

Finance

Section 151. All taxes levied for state purposes shall be paid into the state treasury.

This is identical with Art. 9, Sec. 7 of the constitution of 1870.

Section 152. No payment of money belonging to or for the use of the state shall be held to be made to any officer of the executive department until evidenced by the receipt of the state treasurer.

This section is new. Art. 5, Sec. 23 of the constitution of 1870 provides that "all fees that may hereafter be payable by law for any services performed by any officer provided for in this article of the constitution shall be paid in advance into the state treasury."

Section 153. Each general assembly shall make appropriations for the expenses of the government for a period of two years from the first day of July of the year in which it convenes. After such appropriations have been made the aggregate amount thereof shall not be increased except by a vote of two-thirds of the members elected to each house. All appropriations for any such two year period shall end with the period except that obligations incurred during the period may be paid within three months thereafter.

Article 4, Sec. 18 of the constitution of 1870 provides that "each general assembly shall provide for all the appropriations necessary for the ordinary and contingent expenses of the government until the expiration of the first fiscal quarter after the adjournment of the next regular session, the aggregate amount of which shall not be increased without a vote of two-thirds of the members elected to each house, nor exceed the amount of revenue authorized by law to be raised in such time; and all appropriations, general or special, requiring money to be paid out of the state treasury, from funds belonging to the state, shall end with such fiscal quarter." This provision when taken with the adjournment dates of the general assembly, fixed a two year and three month period for appropriations of each session, with an overlapping three months the expense of which could be charged either to the old or to the new appropriation. This overlapping three month period

is abolished by section 153, but the last sentence permits payment, within three months thereafter, of obligations incurred during the two-year period. This will make it possible to determine readily the expenditures of the state during each two-year period and will otherwise tend to a more effective control of state finances.

Section 154. No money shall be drawn from the state treasury except under an appropriation made by law and on presentation of a warrant issued by the auditor of public accounts.

The provisions of this section are taken without substantial change from Art. 4, Sec. 17 of the constitution of 1870. The revision omits "no money shall be diverted from any appropriation made for any purpose, or taken from any fund whatever, either by joint or separate resolution." This is merely a negative statement of the principle stated in section 154. The matter is clearly covered when section 154 is read together with section 34, and the omission, therefore, involves no change of meaning.

Section 155. The state may contract debts (a) for meeting casual deficits in revenue up to one million dollars, (b) for defense in war, suppressing insurrection or repelling invasion and (c) for the deep waterway as provided in this constitution. Money so borrowed shall be applied only to the purpose for which it is obtained or for the payment of the debts thus created. No other debt shall be contracted by the state unless the law authorizing it is approved by a majority of those voting for members of the house of representatives at a general election. The general assembly shall provide for the publication of any such law for at least three months before the election. Provision shall be made when the debt is contracted for the annual payment of interest either by a tax to be levied for the purpose or by setting aside other revenues. Any law providing for such tax shall be submitted in like manner with the law authorizing the debt and if approved shall be irrepealable.

Provisions concerning the state debt are found in Art. 4, Sec. 18 of the constitution of 1870. Section 155 rephrases the present section and makes several substantial changes. Clause (a) raises from $250,000 to $1,000,000 the possible debt for meeting casual deficits in revenue. Clause (c) is new. A constitutional amendment of 1908, to the separate canal section of the constitution, authorized a $20,000,000 bond issue for a deep waterway. Section 228 of the proposed new constitution authorizes a $10,000,000 additional expenditure for this purpose. Clause (c) is intended merely to recognize here the existence of this authorization. The constitution of 1870 requires that any proposition for an additional debt shall "have received a majority of the votes cast for members of the general assembly." Section 155 substitutes "house of representatives" for "general assembly."

Section 156. No county, town or school district shall become indebted in the aggregate including its existing debt to an amount exceeding five per cent, and no municipal corporation to an amount exceeding six per cent, of the value of the taxable property therein as ascertained by the last assessment for state and county taxes

previous to incurring the debt. The corporate body incurring any such debt before or at the time of doing so shall provide for the collection of a direct annual tax sufficient to pay the interest on the debt and to pay the principal thereof in substantially equal annual installments within twenty years. But provision may be made before or at the time of incurring the debt for the payment of any part of it before maturity. This section shall not apply to or within the county of Cook.

Article 9, Sec. 12 of the constitution of 1870 limits the debt of any "county, city, township, school district or other municipal corporation" to 5 per cent of the value of the taxable property therein.

In section 156, this limitation is continued as to counties, towns and school districts and the debt limit for other municipal corporations is increased to 6 per cent. This change was made to offset a reduction in the debt limit of these other corporations which otherwise might be occasioned by the removal of intangible personal property from the assessment lists as a result of the levying of an income tax under section 142.

The words "in substantially equal annual installments" were inserted for the purpose of requiring serial bonds instead of term bonds. The use of serial bonds by municipal corporations is the prevailing practice within this state and is the more desirable plan of financing. Otherwise the provisions concerning the levying of taxes for the payment of debt principal and interest are the same. (See comments under Sec. 189.)

Section 157. Except as otherwise provided in this constitution the money or credit of the state shall never be used in aid of any public or private corporation, association or person.

This section is identical in substance with Art. 4, Sec. 20 of the constitution of 1870. The exception in the first part of the sentence is new. It relates to such aid as is permitted by sections 59 and 63.

Section 158. Claims against the state under agreements made without express authority of law shall be void except claims for expense incurred for defense in war, suppressing insurrection or repelling invasion.

This section is without substantial change the second part of Art. 4, Sec. 19 of the constitution of 1870, with the addition of the words "defense in war."

Section 159. Except in payment of temporary rent, of temporary hospital service, of purchase price or (in the event and only in the event that public institutions or agencies are not adequate or available) of not to exceed the cost of temporarily maintaining and supporting during their terms of commitment, neglected, defective, dependent or delinquent persons committed by courts of competent jurisdiction to institutions or agencies under public inspection, no public money shall be paid or other public property be given or applied for any sectarian purpose or to any institution controlled by a church or sect.

Article 8, Sec. 3 of the constitution of 1870 contains a general provision

against the use of public funds in aid of any sectarian purpose or of any institution controlled by any church or any sectarian denomination. This has been construed by the Supreme Court as not to prohibit the use of sectarian institutions for the care of persons committed by public authority, provided the payment by the public to such institutions is less than the cost would be to the public, if it directly assumed such care. The exception in section 159 apparently adopts the judicial construction of the present constitution and writes it into the text of the proposed constitution.

ARTICLE VIII

LOCAL GOVERNMENTS

Counties

Section 160. In each county the following county officers shall be elected: a sheriff, a county clerk, a treasurer who shall be *ex officio* collector of taxes until otherwise provided by law, a coroner, a clerk of the circuit court and, in counties of sixty thousand population or more, a recorder of deeds.

The officers enumerated in this section are provided for in Art. 10, Sec. 8 of the constitution of 1870. It should be noted that sections 160 to 169 relate to all counties. Additional officers for counties other than Cook are authorized by section 170.

The clause making the county treasurer "ex-officio collector of taxes until otherwise provided by law" is new. By present law the treasurer is ex-officio collector of taxes in counties under the township system, and the sheriff in other counties.

Section 161. In each county there may be a county superintendent of schools whose qualifications, time and manner of election or appointment, term of office, powers, duties and compensation shall be prescribed by law.

Provisions regarding the county superintendent of schools are found in Art. 8, Sec. 5 of the constitution of 1870. A substantial change has been made in that section as here revised by inserting the words "or appointment."

Section 162. The sheriff, the county clerk and the treasurer shall be elected in nineteen hundred twenty-six and every four years thereafter and the coroner, the clerk of the circuit court and the recorder of deeds in nineteen hundred twenty-four and every four years thereafter, each for a term of four years. In counties not under township organization a commissioner shall be elected in nineteen hundred twenty-three and each year thereafter for a term of three years. The term of every elective county officer shall begin on the first Monday of December next after his election.

This section is taken without substantial change from Art. 10, Sections 6 and 8.

Section 163. The board of supervisors in counties under township organization, the county commissioners of the county of Cook and the county commissioners in counties not under township organization shall constitute the county board of their respective counties.

This section is new. It recognizes the three types of county governing boards provided for by Art. 10, Sections 5, 6 and 7 and laws enacted thereunder.

Section 164. No elected county treasurer shall succeed himself.

This section is taken without change from Art. 10, Sec. 8 of the constitution of 1870. A similar limitation applicable to the sheriff and now found in Art. 10, Sec. 8 has been omitted in the revision. (See p. 104.)

Section 165. Fees of county and town officers, as provided by law, shall be uniform as to classes of counties or towns and for this purpose there shall not be more than three classes of counties.

This section is taken from Art. 10, Sections 11 and 12 of the constitution of 1870. Certain obsolete matter therein has been omitted and several changes in substance have been made. The new section does not apply to state officers and the provision that fees shall be limited "to a reasonable compensation for services actually rendered" has been omitted as to county and township as well as to state officers. The provisions relating to the classification of counties have been somewhat modified.

Section 166. The organization and government of and offices in counties as provided in this constitution may be changed by law uniform as to classes of counties; but any such law shall become effective in a county only after approval by a majority of those voting on the question.

This section is new. The proposed constitution recognizes the three existing plans of county government organization—the township plan, the three-commissioner plan for counties not under township organization and the 15-member-board plan for Cook County. (Sec. 163.) It also creates certain county offices. (Sections 160 and 170.)

Section 166 authorizes the general assembly to change or abolish these forms of organization and offices, or any of them, and to substitute therefor any other form of organization for the administration of county affairs. The same form of organization need not be provided for all counties. The general assembly may classify counties for this purpose and authorize different types of organization in different classes of counties, but any law must be uniform as to the class or classes of counties to which it applies.

No law passed under this section would become operative in any county until adopted by the voters thereof.

The county judge and state's attorney not being county officers could not be affected under this section.

Section 167. No county may abandon or adopt any form of organization unless a majority of those voting on the question shall approve the change.

The constitution of 1870 expressly continued the three-member board type of organization for counties then not under township organization. (Art. 10, Sec. 6.) It also required the general assembly to provide for the township type of organization under which the non-township counties might organize if they so desired. Further, it expressly permitted counties organized under either form to change to the other form by submitting the question of such change to popular vote. (Art. 10, Sec. 5.) In pursuance of these provisions enabling legislation has been passed and is now in effect.

The proposed new constitution recognizes each of these existing forms of organization, although the detailed provisions of Art. 10, Sec. 5, including the one authorizing counties to change from one to the other of such forms, are omitted. It is possible that section 167 is intended to permit such a change under present or future legislation other than that contemplated by section 166 and that it will be so construed by the courts.

Section 168. No county shall be changed in area unless the change is approved by a majority of those voting on the question in each county and each part affected. Any territory taken from a county shall be liable for its proportion of the debt of such county.

Article 10, Secs. 2 and 3 of the constitution of 1870 deal with the subject of changing county boundaries. These sections require (1) a petition by a majority of the voters living in the territory proposed to be stricken from a county. (2) A vote of the people of the county from which the territory is proposed to be taken. (3) A vote of the county to which the territory is proposed to be added.

Section 168 by the phrase "and each part affected" will require (1) a vote by the voters of the territory proposed to be stricken from a county; (2) a vote of the people of the county from which the territory is proposed to be taken; (3) a vote of the county to which the territory is proposed to be added; and (4) a separate vote by the portion of the county remaining after the proposed annexation.

Section 169. No county seat shall be removed unless three-fourths of those voting on the question shall approve the removal to the place designated except that a majority only shall be required to remove a county seat nearer to the center of the county. No person shall vote on the question unless he has resided in the election precinct ninety days and in the county six months next preceding the election. Such question shall not be submitted oftener than once in ten years.

This section is substantially the same as Art. 10, Sec. 4 of the constitution of 1870, except that the words "three-fourths" have been substituted for "three-fifths."

Counties other than the County of Cook

Section 170. There shall be an assessor in each county to be selected as provided by law. The county clerk shall be *ex officio* clerk of the county court. In counties of less than sixty thousand population the clerk of the circuit court shall be *ex officio* recorder of deeds. In counties of fifty thousand population or more an auditor may be selected as provided by law.

The provisions of this and the three following sections do not apply to Cook County.

The first sentence of this section is new. It provides that there shall be a county assessor but permits the general assembly to determine whether he shall be selected locally or by state authority or through some combination of the two methods. Under present statute the county treasurer is ex-officio assessor in counties not under the township system. In counties under township organization (except Cook County) assessments are made by township assessors.

The second sentence continues the present practice. The constitution of 1870 by Art. 6, Sec. 18 provides that in each county there shall be a clerk of the county court. Art. 10, Sec. 8 provides for a county clerk. By statute these two offices have been united and the county clerk now serves as ex-officio clerk of the county court in all counties.

The third sentence is taken from Art. 10, Sec. 8 of the present constitution without substantial change.

The last sentence of the section is new. Under present statute an auditor is now elected in counties having a population of more than 75,000, except the county of Cook.

Section 171. The compensation of all county officers (except the county superintendent of schools) and the number and compensation of their employees shall be fixed by the county board and paid by the county treasurer on the order of the county board.

Section 171 is largely a revision of Art. 10, Sec. 10 of the constitution of 1870. The present provision regarding "clerk hire, stationery, fuel and other expenses" is omitted, as is also the division of counties into five classes and the fixing of a maximum rate of compensation for each class. The limitation of compensation to the fees actually collected is also omitted. The compensation of the county superintendent of schools is to be fixed by the general assembly under section 161. Under the decision in the case of McAuliffe v. O'Connell, 258 Ill. 186 (1913) this section applies only to constitutional county officers.

Section 172. No county shall be so created or reduced as to contain less than four hundred square miles nor shall any part of a county within ten miles of its seat be taken for a new county.

This section is substantially the same as Art. 10, Sec. 1 of the constitution of 1870, except that it is made inapplicable to Cook County.

Section 173. Unless authorized by a majority of those voting at an election no county shall levy taxes in excess of three-fourths of one per cent of valuation. But in case a county is made the unit for the levy and collection of taxes for road and bridge purposes an additional amount not exceeding three-fourths of one per cent of valuation for such purposes may be levied which may be increased when authorized by a majority of those voting at an election.

This and the three preceding sections shall not apply to the county of Cook.

A substantial change has been made in the first sentence of this section which is taken from Art. 9, Sec. 8 of the constitution of 1870. It substitutes the words "a majority of those voting at an election" for "a vote of the people of the county." The latter phrase has been interpreted by the general assembly to mean "a majority of the votes cast upon the question," and propositions for additional taxes are now submitted and approved on that basis.

The second sentence is new. The first sentence imposes a limitation within which the general assembly may control county tax rates. On the other hand, the second sentence constitutes a direct constitutional grant of additional taxing power to the county, which is not subject to legislative control, if the county is made the unit for road and bridge taxes.

County of Cook

Section 174. The county business of the county of Cook shall be transacted by a board of fifteen commissioners ten of whom shall be elected from the city of Chicago and five from the rest of the county.

This section is identical in substance with Art. 10, Sec. 7 of the constitution of 1870.

Section 175. Each county officer in the county of Cook shall receive as his sole compensation a salary to be fixed by law. Such salary shall be less than the compensation of a judge of the circuit court of the county. The circuit court by rule entered of record shall determine the number and the county board shall determine the compensation of deputies and assistants of the sheriff, treasurer, coroner, recorder of deeds and clerk of the circuit court.

The first two sentences of this section are taken from Art. 10, Sec. 9 of the constitution of 1870, but their application is extended to certain constitutional officers not enumerated in that section. The present requirement that compensation shall be paid "only out of the fees of the office actually collected" has been omitted. The last sentence of this section is taken without substantial change from Art. 10, Sec. 9.

Section 176. The general assembly may consolidate with the city of Chicago the portion of the county of Cook lying within the city. Any law providing therefor shall adjust the powers, offices, rights and liabilities of the county (both in the portion within the city and in the portion outside the city) and may either devolve them

in whole or in part upon the city or provide otherwise for their exercise and assumption. Whenever the entire powers of any office are taken away the office shall be abolished. No such law shall take effect until approved both in the city of Chicago and in the portion of the county lying outside the city by a majority of those voting on the question.

This section is new. It is intended to provide for the consolidation of the city of Chicago and the county of Cook within the city. Such a consolidation will require the approval of the voters of the city and also the separate approval of the voters of the portion of the county outside the city. Under this condition, so long as the relatively smaller number of voters in the county outside of the city object no such consolidation can be effected.

Section 177. Unless authorized by a majority of those voting on the question at an election the county of Cook shall never levy taxes in excess of three-fourths of one per cent of valuation except such additional taxes as may have been authorized prior to the adoption of this constitution.

This section will operate to continue the limitation on the taxing authority of Cook County which now exists under Art. 9, Sec. 8 of the constitution of 1870. The language of the two sections is materially different but the rephrasing will not affect the present situation. The "additional" taxes mentioned in section 177 have all been authorized by popular vote for the purpose of paying the principal and interest of bonded indebtedness now outstanding.

City of Chicago

Section 178. Except as expressly prohibited by law the city of Chicago is hereby declared to possess for all municipal purposes full and complete power of local self-government and corporate action. This grant of power shall be liberally construed and no power of local self-government or corporate action shall be denied the city by reason of not being specified herein. The city however may impose taxes and borrow money only as authorized by the general assembly or by this article. Until otherwise provided by the city charter the powers heretofore granted the city shall be preserved and exercised in accordance with law and the additional powers granted by this section shall be exercised by or in accordance with city ordinances.

This section is new and together with the following 15 sections is designed to grant home rule powers to the city of Chicago, subject to certain specific limitations.

The present rule of law is that a city has only those powers expressly granted to it by the general assembly. This section reverses this rule and gives to the city "full and complete power of local self government and corporate action," except as such power may be expressly denied to the city by the general assembly.

This grant of power is also subject to the following conditions:

1. The city may impose taxes and borrow money only as expressly

authorized to do so either by this constitution or the general assembly. Sections 192 and 193 contain an express grant of power to incur indebtedness (subject to the limitations therein expressed) for the purpose of supplying transportation and water. No legislative action is necessary to make this power effective. Any other indebtedness authorized by the general assembly will be subject to the limitations contained in sections 190 and 191.

2. The authority of the general assembly to deny powers of local self government to the city is restricted by the provisions in section 179 that, in matters relating to the "organization of the city government, the distribution of powers among its official agencies and the tenure and compensation of its officers and employes," the city charter shall prevail over state laws.

3. Section 180 expressly grants the power of eminent domain to the city, but requires that such power be exercised according to law.

4. Section 181 expressly grants the city power to own and operate public utilities, subject only to regulation by general law applicable not only to Chicago but to other cities.

Section 179. The legislative authority of the city of Chicago, from time to time and after approval of the proposition at an election in such manner as it may provide, may call an elective convention to frame a new city charter or to revise or amend any existing charter. The proposals of any such convention shall be submitted to the voters for adoption in the manner provided by it. Subsequent amendments may also be proposed and submitted to the voters in such manner as the charter may provide. State election laws and the powers and duties existing thereunder shall be available for the purposes of this section. The charter so framed, revised or amended and ordinances passed thereunder shall prevail over state laws so far as the organization of the city government, the distribution of powers among its official agencies and the tenure and compensation of its officers and employees are concerned. Rates of compensation as well as conditions of appointment and promotion in the classified civil service of the city shall be determined according to a general plan which shall recognize merit and fitness as controlling principles. A certified copy of such charter or any amendment thereto shall be filed with the secretary of state within thirty days after its adoption.

Section 179 provides for calling a charter convention, or conventions, and for framing or amending the city charter under which the home-rule powers conferred by the new constitution will be exercised. The extent to which such a charter may prevail over state laws is indicated in the text of the section. (See also comment under Sec. 178.) The provision with reference to civil service is intended to assure the continued application of the principles now generally expressed in civil service laws.

Section 180. The city of Chicago shall have power to take in fee simple or otherwise or damage private property (including public utilities and the privileges or licenses held in connection therewith) for public use in accordance with law.

This section is new in that it expressly guarantees to the city of Chicago the power to take, in fee simple or otherwise, or to damage private property for public use. It supplements the power of eminent domain, now

exercised by the city under Art. 2, Sec. 13 of the constitution of 1870 and the enabling legislation passed in pursuance thereof, and extends that power so that the city may acquire title in fee simple to property condemned and paid for. The exercise of the power conferred by this section is subject to regulation by the general assembly. The substance of the clause in parenthesis is taken from Art. 11, Sec. 14 of the present constitution.

Section 181. The city of Chicago, subject to regulation by general law, may own, acquire, construct, operate, sell, pledge, lease or let public utilities or buy or sell the service thereof.

This section is new, but grants substantially the same power that is now conferred by statute. The power here conferred is "subject to regulation by general law." This clause is intended to prevent discriminatory special legislation against the city. It will also operate to prohibit special regulatory legislation that might be advantageous to the city, and will subject it to the same legislative regulations for municipally owned utilities that may be provided for other cities.

Section 182. The general assembly may enact local or special laws relating to the municipal affairs of the city of Chicago but such laws shall not take effect until the city consents. A law which at the time of its enactment is applicable to the municipal affairs of no other city than the city of Chicago shall be deemed a local or special law.

This section is new. Art. 4, Sec. 34 of the constitution of 1870 (added by amendment in 1904) authorizes the general assembly to enact special legislation for the city of Chicago with respect to certain matters of local government. Any such law before it takes effect must be approved by the voters of the city. Section 182 is more general in its terms and perhaps broader in its scope than the present provision, and the manner in which the city may consent to such a special law, as prescribed in section 183, is substantially different from that now prescribed. The class of laws covered by this section does not include acts for the consolidation of local governments. (See Sections 185, 187 and 188.)

Section 183. The consent of the city of Chicago whenever required by this article shall be expressed by ordinance but the general assembly, the city charter or the ordinance may prescribe in addition approval of the ordinance by the voters.

This section is new and prescribes the form in which the city's consent shall be given to local or special legislation affecting Chicago.

Section 184. The consent of the city of Chicago shall be required for the creation, enlargement or consolidation of any municipal corporation (except a county) exercising taxing powers within the city or for any increase of the taxing powers of any such municipal corporation hereafter created or enlarged. No ordinance expressing consent to the creation, enlargement or consolidation of any municipal corporation shall take effect until ninety days after its enactment and if within that time either five thousand voters or one-third

of the legislative authority of the city petition that body to submit the question at an election the ordinance shall not take effect until approved by a majority of those voting on the question.

This section is new. Under it, unless the city of Chicago consents, no municipal corporation (except a county) exercising taxing powers within the city may hereafter be created, enlarged or consolidated; and no such municipal corporation hereafter created or enlarged may have its taxing power increased without the consent of the city.

The second sentence of the section provides for an optional referendum upon any ordinance approving the creation, enlargement, or consolidation of any such municipality.

Section 185. The charter framed, revised or amended under section one hundred seventy-nine of this constitution may provide:

(a) For the consolidation with the city of Chicago of any or all local governments or other authorities (in whole or in part) now or hereafter exercising powers confined to the city limits; and also of that part of any town (partly within and partly without the city) now or hereafter lying within the city limits. After consolidation with the city of any town (or part thereof) the powers of all officers therein relating to collection of taxes shall be exercised by the county treasurer until otherwise provided by law.

(b) For the consolidation with the city of Chicago of the Sanitary District of Chicago and the Forest Preserve District of Cook County, or either of them. No consolidation of either of such districts shall take effect until approved at an election by a majority of those voting on the question both in the district and in the city. The question of consolidation of either district shall be submitted to the voters thereof as a separate proposition and the election officials responsible for conducting elections therein shall submit the question in the manner provided by the charter. The city shall exercise no taxing power outside its limits by virtue of consolidating either district. Upon consolidation of the Sanitary District of Chicago with the city of Chicago and until otherwise provided by law, the city shall furnish without charge sewage disposal service beyond its limits in the district, to the extent then furnished by the district; and the city may be required by law to furnish at cost additional or increased sewage disposal service in such territory. All duties or obligations imposed by law at the time of such consolidation for the benefit of the inhabitants of such territory or any part thereof upon the city or the Sanitary District of Chicago with respect to other forms of service shall be assumed by the city unless it is relieved therefrom by the general assembly.

Any authority consolidated with the city of Chicago under this section shall be abolished and the city shall succeed to all the powers, property and liabilities thereof. If any consolidation proposed under this section fails to be approved at any election, the question may be resubmitted from time to time in the manner provided by the charter.

This section deals with the subject of the consolidation of local governments (except Cook County) with the city of Chicago.

Article 4, Sec. 34 of the constitution of 1870 (as amended in 1904) authorizes the general assembly to consolidate with the city local governments having jurisdiction confined to the city. Paragraph (a) of section 185 covers substantially the same class of governmental authorities, but permits a consolidation to be effected through the action of a charter convention or by charter amendment, subject to approval by the voters of the city at large; whereas consolidation under Art. 4, Sec. 34 requires action by the general assembly, subject to approval by the voters of the city and also of each part of the city affected. The provision of paragraph (a) concerning the division of a town, partly within and partly without the city, is new.

The provisions of paragraph (b) are entirely new. The city is given power to provide through its charter for taking over the functions of the Sanitary District of Chicago and of the Forest Preserve District of Cook County, but any such consolidation will be subject to the approval of the voters of the city and also of all the voters of each of the districts affected. In the event of such consolidation the city will assume the entire obligation of maintaining the forest preserve properties without further expense to the portion of the county outside the city. It will also assume the obligation of continuing to furnish, free of expense to the portion of the Sanitary District outside the city, sewage disposal service to the extent that it is being furnished by the District at the time of consolidation; and the city may be required by the general assembly to furnish at cost increased or additional sewage service in such territory.

The city will acquire no taxing power outside its limits by virtue of either of such consolidations.

Section 186. After any consolidation authorized by the foregoing section has taken effect and until a new tax rate is fixed by law, the city of Chicago may levy an additional annual tax equal to the amount of taxes caused to be extended by the authority so consolidated upon the collector's warrants in the year last preceding consolidation.

This section is new. It authorizes the city (upon the consolidation with it of any other local government and until a consolidated tax rate is fixed by the general assembly) to levy additional taxes equal in amount to those being levied by the authority consolidated.

Section 187. The rights of the city of Chicago under the Act for the Consolidation of Local Governments, approved June twenty-ninth, nineteen hundred fifteen, or any amendment thereof are not affected by this article.

This section is new, and is intended to preserve rights under the so-called "park consolidation" act of 1915, which was enacted under the powers granted by Art. 4, Sec. 34 of the constitution of 1870, and which may become operative whenever approved by the voters.

Section 188. The general assembly may provide other methods for consolidating local authorities with the city of Chicago subject to its consent.

This section is new and is intended to supplement section 185 (which deals with locally initiated methods of consolidation) by empowering the general assembly to provide "other methods" for consolidating local authorities with the city of Chicago, subject to the city's consent as prescribed in sections 183 and 184. Its purpose is to accomplish substantially what was sought to be accomplished by Art. 4, Sec. 34 of the present constitution. However, on its face, it is broader in scope, since it covers not only local authorities having jurisdiction entirely within the city, but also local governments, except the county, either now in existence or hereafter created, having jurisdiction partly within and partly without the city.

The extent of the authority conferred will be determined by the construction placed by the courts upon the words "other methods". If they are broadly construed the intention of the convention will be carried out; if narrowly construed, the section will have little value.

Section 189. After any consolidation authorized by this article has taken effect the city of Chicago may become indebted in the aggregate up to seven per cent of the full value of the taxable real property therein as ascertained by the last assessment for state and county taxes previous to incurring the debt. In computing such aggregate amount there shall be included the existing indebtedness of the city and of all municipal corporations within the city and also the city's proportionate share (determined according to valuation of taxable real property) of the existing indebtedness of all municipal corporations partly within and partly without the city.

This section fixes the debt limit of the city after consolidation. A similar provision is found in Art. 4, Sec. 34 of the present constitution, but there are three essential points of difference.

1. This section becomes operative as soon as any consolidation is effected; under Sec. 34 the consolidation of two local governments with the city is required.

2. In computing the aggregate debt of the city under this section there must be included the debt of the Forest Preserve district and of any municipality hereafter created within or partly within the city; such debts are in addition to those specified in Sec. 34.

3. Five per cent of the full value of all property (real and personal) as fixed for purposes of taxation is the basis prescribed for determining the limit of indebtedness under Sec. 34. Seven per cent of the full value of <u>real</u> property is the basis under section 189. This change in the basis for determining debt limit (which appears also in section 190) does not increase that limit. Seven per cent of the taxable value of <u>real</u> property is substantially equivalent to 5 per cent of the taxable value of <u>all</u> property. The change was made to avoid a possible reduction in the city's debt incurring power which otherwise might result from the removal of intangible personal property from the assessment lists if an income tax is levied under section 142. The basis used for fixing debt limits does not, of

course, determine what property shall be taxed for the payment of the debt. Under the proposed change, as at present, both real and personal property would be liable to taxation for the payment of any debt created, except as intangibles may be relieved of local taxation and subjected to a substitute income tax under section 142.

Section 190. Neither the county of Cook nor any city, town, school district or other municipal corporation in the county shall become indebted in the aggregate including its existing debt to an amount exceeding seven per cent of the value of the taxable real property therein as ascertained by the last assessment for state and county taxes previous to incurring the debt. The corporate body incurring any such debt, before or at the time of so doing, shall provide for the collection of a direct annual tax sufficient to pay the interest on the debt and to pay the principal thereof in equal annual installments within twenty years. But provision may be made at the time of incurring the debt for the payment of any part of it before maturity.

The provisions of this section are taken largely from Art. 9, Sec. 12 of the constitution of 1870. So far as the city of Chicago is concerned, it applies before any consolidation of local governments has taken place. It does not change substantially the present situation either as to the city or as to any of the other municipal corporations mentioned. The change from 5 per cent to 7 per cent in the basis for fixing the debt limit is explained under section 189. The phrase "in equal annual installments" is new and will require serial instead of term bonds; but practically all municipalities in Cook County now make a practice of issuing only serial bonds. The last sentence of the section is also new, but is merely an incident to the constitutional requirement for serial bonds. (Section 156, which is also taken from Art. 9, Sec. 12, applies to municipalities outside of Cook County.)

Section 191. The city of Chicago shall incur no new bonded indebtedness (except for refunding purposes) without the approval at an election of a majority of those voting on the question.

Section 191 is new in its present form. A similar provision is found in Art. 4, Sec. 34 of the present constitution but applies only after the consolidation of local governments as therein authorized. The new section so far as it will apply immediately merely puts into the constitution the rule now prescribed by statutory law.

Section 192. The city of Chicago may issue bonds (in addition to any debt otherwise permitted by this constitution) for the purpose of acquiring, leasing, constructing or operating income-producing property for supplying transportation or water. At or before the time of issuing any such bonds the city shall provide for the collection of a direct annual tax sufficient to pay the interest thereon and the principal thereof within forty years. Unless otherwise provided in the ordinance authorizing the issuance of any bonds for financing any such income-producing public utility, such bonds shall be held to be issued under the foregoing provisions of this section.

The city having issued bonds under the provisions of this section, thereafter at least four months before any tax for the payment of the principal and interest of any such bonds or for the payment of the principal and interest of any other indebtedness incurred for financing the same utility becomes collectible by law, shall deposit with the city treasurer, out of the gross earnings or the rentals of the utility for financing which the debt to be discharged by any such tax was incurred, a sum equal in amount to such tax. The money so deposited shall be used only to pay such principal and interest. To the extent that such funds are deposited prior to the collection of any such tax it shall not be collected.

The city having issued bonds under the provisions of this section shall thereafter establish and maintain such rates or charges for the service supplied or such rentals if the property is let for private operation as may be necessary to provide at least sufficient revenue to pay (a) the principal and interest of all outstanding bonded or other indebtedness incurred for financing such utility and (b) the cost or expense involved in or incidental to the ownership, operation or maintenance of such utility, including taxes, assessments and reserves for repairs and renewals necessary to maintain the property in first-class condition.

Any taxpayer of the city shall have the right, which shall not be exclusive in him, to enforce the provisions of this section by appropriate proceedings in the circuit court of the county. That court shall enforce the provisions of this section and for such purpose shall have all necessary powers including the power to regulate the service supplied by any such utility.

This section is entirely new. It authorizes the city to issue forty-year full faith and credit bonds for the purpose of supplying transportation and water. This section confers power directly upon the city and no action by the general assembly is required to enable the city to utilize its provisions. However, laws not in conflict with this and the following section may be passed to facilitate the carrying out of the plan therein provided for.

Like other city bonds, the bonds issued under this section will be supported by a tax levy but the principal and interest payments are made a first charge upon the earnings of the utility. Four months before any tax for such payments might be collected the city is required to set aside from such earnings and to deposit with the city treasurer the amount of such principal and interest payments, and in that event no tax is to be collected.

Provision is also made that if the city issues bonds under this section it shall provide rates of service sufficient to make the utility completely self-supporting. Any taxpayer is given the right to enforce these provisions in the courts, which are given complete power to deal with the subject matter. These provisions, as well as the provision for setting aside and depositing funds for the payment of bond principal and interest, are intended to safeguard taxpayers against having to pay bond charges or operating deficits out of taxation.

The purpose of the provision for full faith and credit bonds is to enable the city to issue the highest type of municipal security and thereby to secure lower interest rates. If a saving of one per cent in the interest rate can

be effected through the use of this class of bond, instead of a limited liability municipal bond, the difference in the interest charge will be sufficient to pay the entire principal of the debt within 40 years.

This section does not prevent the city from financing such utilities through the use of its general debt incurring power and the self-supporting features of this section apply only when bonds are issued under its provisions. But in that event such provisions apply to the transactions of the utility as a whole, irrespective of whether the financing has been partly by other means.

Section 193. Each issue of bonds or other securities by the city for financing any income-producing public utility shall be payable in substantially equal annual installments of principal and interest combined, beginning not more than five years from the date thereof. But provision may be made at the time of incurring the debt for the payment of any part of it before maturity. No such bonds or other securities shall be issued without the approval at an election of a majority of those voting on the question. The city of Chicago if it owns or operates any such public utility shall conform to the same requirements for keeping accounts and for the audit thereof and for making reports as are prescribed by law for a like utility privately owned.

If the city of Chicago constructs or acquires a subway or other property for transportation purposes, it may let the property to an operating company but only for such period of time as may be approved at an election in the city by a majority of those voting on the question.

Publicly owned income-producing property of the city of Chicago (or of any local government or authority exercising powers within the limits of the city) used for supplying transportation shall be taxed in the same manner as privately owned property used for a like purpose, notwithstanding any other provision in this constitution.

Laws may be passed in aid of this and the preceding section.

This section is new. The first paragraph provides for compliance with certain details in connection with the financing and operation of any municipally owned income producing public utility.

The second paragraph authorizes the city to lease for private operation a subway or other transportation property owned by it; but the period of time for which such lease may be made is subject to approval by the voters of the city.

The third paragraph requires municipally owned transportation properties within the city to pay taxes in the same manner as privately owned property used for a like purpose. This paragraph modifies section 145, permitting the exemption from taxation of all public property.

ARTICLE IX

PUBLIC SERVANTS.

Section 194. An office is a public position created by the constitution or law continuing during the pleasure of the appointing power or for a fixed time with a successor elected or appointed. An employment is an agency for a temporary purpose which ceases when that purpose is accomplished.

This section is identical with Art. 5, Sec. 24 of the constitution of 1870.

Section 195. To hold any office created by this constitution a person shall be a citizen of the United States, resident in this state one year and able to read and write the English language.

The words "and able to read and write the English language" are new in this section. Otherwise it is taken without substantial change from Art. 7, Sec. 6 of the constitution of 1870. The limitation of its provisions to constitutional offices merely expresses the construction given the present section by the Supreme Court in People v. McCormick, 261 Ill. 413 (1914).

Section 196. No person shall hold any public office who has been convicted of an infamous crime or is in default as collector or holder of public money or if he holds any office under the United States (except as a postmaster whose annual compensation does not exceed three hundred dollars) or under a foreign government.

The provisions of this section are taken without important change from Art. 4, Sections 3 and 4, and Art. 9, Sec. 11 of the constitution of 1870.

Section 197. All civil officers except members of the general assembly and such inferior officers as may be exempted by law, before they enter upon the duties of their respective offices shall take and subscribe the following oath or affirmation:

I do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of the State of Illinois and that I will faithfully discharge the duties of the office of.....to the best of my ability.

No other oath, declaration or test shall be required as a qualification.

This section is identical in substance with Art. 5, Sec. 25 of the constitution of 1870. For the oath of members of the general assembly see section 29.

Section 198. All public officers shall hold office until their successors have qualified.

This section is new, but it expresses a well recognized principle applicable to both constitutional and statutory officers. The statement that officers shall serve until their successors have been elected and qualified appears in several places in the constitution of 1870. (See Art. 5, Sections 1 and 2; Art. 6, Sec. 32; Art. 10, Sec. 8.)

Section 199. No public officer shall have his term extended by law after his election or appointment.

This section is taken without substantial change from Art. 4, Sec. 28 of the constitution of 1870.

Section 200. No legislative, executive or judicial officer and no officer of any county shall receive to his own use any fees, fines, costs, perquisites, percentages, interest, benefits, emoluments or allowances.

This section is new. Art. 5, Sec. 23 of the constitution of 1870 forbids state executive officers to "receive to their own use any fees, costs, perquisites of office or other compensation." Art. 10, Sections 9 and 10, requires county officers to pay into the county treasury fees in excess of their compensation.

Section 200 applies to state officers and to county officers, but does not apply to other types of local officers. It should be read in connection with section 203 requiring payments of public moneys and interest thereon into the public treasury; and with section 82 requiring a detailed financial statement from the state treasurer.

Section 201. No public officer shall have his compensation increased or diminished during his term.

This section brings together and states a principle which is expressed in eight separate places in the constitution of 1870. (See Art. 4, Sections 21, 22; Art. 5, Sec. 23; Art. 6, Sections 7, 16, 25; Art. 9, Sec. 11; Art. 10, Sec. 10.) A provision postponing any increase of compensation for members of the general assembly until the second regular session following the increase will be found in section 52. The provisions of the constitution of 1870 have been held by the courts to apply to all officers, both constitutional and statutory. Section 201 is similarly broad in its application.

Section 202. No extra compensation or allowance shall be given by law to any public officer, employee or contractor after service has been rendered or contract made.

This section is taken without substantial change from Art. 4, Sec. 19 of the constitution of 1870.

Section 203. Every public officer shall make a report under oath at least semiannually to some official to be designated by law of all fines, fees, costs, prequisites of office or public moneys collected. Every such officer shall pay at least monthly to some official designated by law all public moneys and interest thereon received by or for him.

The first sentence of this section is similar to Art. 10, Sec. 13 of the constitution of 1870, except that it extends to all public officers, whereas the present provision is limited to those who are paid in whole or in part by fees. The second sentence is new. Provisions of the present constitution relating to the same subject are: Art. 5, Sec. 23, requiring that fees payable to state officers "shall be paid in advance into the state treas-

ury"; and Art. 10, Sections 9 and 10, providing that the excess of county fees over compensations for certain county officers shall be paid into the county treasury.

The entire section should be read in connection with sections 200 and 82.

Section 204. No officer of this state shall be beneficially interested directly or indirectly in any contract with the state. No officer of any subdivision of the state or of any municipal corporation or of any board or commission shall be beneficially interested directly or indirectly in any contract with the particular body of which he is an officer.

The principle that no officer shall be beneficially interested in contracts with the governmental body of which he is an officer is expressed in Art. 4, Sec. 15 of the constitution of 1870, with respect to members of the general assembly; in Art. 4, Sec. 25, with respect to members of the general assembly and other officers of the state, as regards certain contracts; and in Art. 8, Sec. 4, with respect to school teachers and school officers.. Specific provisions regarding any interest of members of the general assembly in contracts will be found in section 55, and section 211 contains specific provision regarding school officers. In the broad form in which it appears in section 204 this provision is new.

Section 205. No statute of limitation shall begin to run in favor of a public officer until an audit of his accounts has been made as provided by law.

This section is new. The attorney general has held that Art. 4, Sec. 23 of the constitution of 1870, embodied in section 47 of the proposed constitution, prohibits the enactment of a statute of limitations barring claims of the state or of a municipal corporation. Section 205 indirectly permits such a statute, but to run only after an audit of accounts has been made as provided by law.

Section 206. Any public officer or employee or his beneficiary may be given by law a vested interest in the accumulated portion of any death, disability or retirement fund to which he is required by law to contribute a part of his compensation; but such interest shall attach only to the fund accumulated and shall impose no obligation on the state to create or maintain such fund.

This section is new. It is intended to grant the general assembly power to give public officers, employes and their beneficiaries a vested interest in accumulated pension funds to which they may be required to contribute. It is not intended to require the establishment or continued maintenance of any such fund.

Section 207. All laws of the State of Illinois and all official writings and legislative, executive and judicial proceedings shall be conducted, preserved and published in no other than the English

language; but this shall not prevent the use of abbreviations in the files and records of judicial proceedings.

This provision is taken from Sec. 18 of the schedule of the constitution of 1870, with the addition of the language "but this shall not prevent the use of abbreviations in the files and records of judicial proceedings." The purpose of this added language is to overcome the effect of the decision in Stein v. Meyers, 253 Ill. 199 (1912).

ARTICLE X

EDUCATION.

Section 208. The general assembly shall provide a thorough and efficient system of free schools whereby all children of this state may receive a good common school education.

This section is identical with Art. 8, Sec. 1 of the constitution of 1870.

Section 209. The general assembly shall make adequate provision for the maintenance and development of the University of Illinois and the system of state normal schools.

This section is new.

Section 210. Property received for public education and the proceeds of such property shall not be diverted to another purpose except that by consent of the school officers holding legal title special assessments may be levied on school property.

This section is a rephrasing of Art. 8, Sec. 2 of the constitution of 1870, with the addition of the words "except that by consent of the school officers holding legal title special assessments may be levied on school property." It is possible, however, that in the rephrasing the meaning of the present section has been changed. The Supreme Court of Illinois has held the provisions of Art. 8, Sec. 2 applicable only to gifts or grants made prior to the adoption of the constitution of 1870, and has said that the section primarily relates to gifts and grants from the Federal government. As rephrased the language may be held to relate to any property received for public education from public or private sources, and irrespective of the time when it is received.

School property, and the proceeds thereof, to which Art. 8, Sec. 2 of the constitution of 1870 is applicable, is exempt both from general taxation and from special assessments. The added clause permits special assessments with the consent of the school officers holding legal title.

Section 211. No school officer shall be financially interested in any contract concerning any school with which he is connected or in any book, apparatus or furniture used in such school.

Article 8, Sec. 4 of the constitution of 1870 prohibits teachers or school officers being interested in "the sale, proceeds or profits of any book, ap-

paratus or furniture, used or to be used in any school in this state, with which such officer or teacher may be connected." Section 211 extends this prohibition to all contracts, but removes the restriction as to teachers. For similar limitation as to other offices, see sections 55 and 204.

ARTICLE XI

MILITIA

Section 212. The militia of the State of Illinois shall consist of all able-bodied male persons resident in the state between the ages of eighteen and forty-five, except such persons as now are or hereafter may be exempted by the laws of the United States or of this state. No person, because of conscientious scruples against bearing arms, shall be exempted by the laws of this state from any military service declared by the governor to be noncombatant.

This section consolidates the provisions of Art. 12, Sections 1 and 6 of the constitution of 1870 with one material change. The first sentence is identical with Art. 12, Sec. 1. Art. 12, Sec. 6 grants constitutional exemption from military service to those having conscientious scruples against bearing arms, subject to a payment of an equivalent for such exemption. The second sentence of section 212 provides that no such person shall be exempt from any military service declared by the governor to be noncombatant.

Section 213. All militia officers shall be commissioned by the governor and may hold their commissions for such time as the general assembly may provide.

This section is identical with Art. 12, Sec. 3 of the constitution of 1870.

Section 214. Members of the organized militia in all cases except treason, felony or breach of the peace shall be privileged from arrest during their attendance at and in going to and returning from musters and military elections.

This section is the same in substance as Art. 12, Sec. 4 of the constitution of 1870.

Section 215. The military records, banners and relics of the state shall be preserved as enduring memorials of the patriotism and valor of the men of Illinois.

This section is the same in substance as Art. 12, Sec. 5 of the constitution of 1870.

ARTICLE XII

WAREHOUSES AND COMMON CARRIERS

Section 216. Elevators and storehouses where property is stored for compensation are public warehouses.

This section is the same in substance as Art. 13, Sec. 1 of the constitution of 1870.

Section 217. The manager of every public warehouse in cities of over one hundred thousand population, or such population as may be provided by law, shall post conspicuously each week in the office of the warehouse a sworn statement of the amount and grade of grain and also of the other property stored therein and of the warehouse receipts outstanding and shall file a copy of the statement in a place designated by law. Changes in quantity and grade of grain stored shall be noted daily upon the statement in the warehouse. Unless the owner or consignee consents different grades of grain shipped in separate lots shall not be mixed.

This section is taken without substantial change from Art. 13, Sec. 2 of the constitution of 1870, except for the addition of the clause "or such population as may be provided by law."

Section 218. The holder of a public warehouse receipt may always examine the property and the warehouse records thereof.

This section is identical in substance with Art. 13, Sec. 3 of the constitution of 1870.

Section 219. Railroads and other common carriers shall, at the point of shipment, weigh or measure and receipt for the full amount of grain and deliver it to the consignee or owner.

This section is taken from Art. 13, Sec. 4 of the constitution of 1870, but is changed so as to make it applicable to all carriers. Art. 13, Sec. 4 is limited in its application to "railroad companies and other common carriers on railroads."

Section 220. Railroads shall deliver grain to any consignee who can be reached by an available track and shall permit connections so that any public warehouse, coal bank or coal yard may be reached by cars.

This section is similar to Art. 13, Sec. 5 of the constitution of 1870, but there is one change of substance. Art. 13, Sec. 5 permits any consignee to have connections with railroad tracks, while section 220 is limited in its application to "any public warehouse, coal-bank or coal-yard."

Section 221. It shall be the duty of the general assembly to pass all necessary laws to prevent the issue of false and fraudulent warehouse receipts and to give full effect to this article which shall be liberally construed to protect producers and shippers.

The enumeration of remedies herein shall not be construed to deny to the general assembly the power to prescribe by law such other remedies as may be found expedient or to deprive any person of existing common law remedies.

This section is identical in substance with Art. 13, Sec. 6 of the constitution of 1870.

Section 222. The general assembly shall pass laws for the inspection of grain and for the protection of producers, shippers and receivers of grain and produce.

This section is the same in substance as Art. 13, Sec. 7 of the constitution of 1870.

Section 223. Railroads are hereby declared public highways and shall be free to all for the transportation of persons and property under such regulations as may be prescribed by law. The general assembly shall from time to time pass laws establishing reasonable maximum rates for the transportation of passengers and freight thereon.

This section is identical in substance with Art. 11, Sec. 12 of the constitution of 1870.

Section 224. The general assembly shall pass laws to correct abuses and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this state and enforce such laws by adequate penalties to the extent if necessary of forfeitures of their property and franchises.

This section is identical in substance with Art. 11, Sec. 15 of the constitution of 1870.

Section 225. Nothing in the two preceding sections shall be construed to limit the powers of the general assembly.

This section is new. However, Art. 13, Sec. 6 of the constitution of 1870 contains a similar provision with respect to warehouses, which has been taken over into section 221. Section 225 applies the same rule of construction to the sections dealing with railways.

Section 226. The owner shall retain the fee of land taken for railroad tracks without his consent.

This section is identical in substance with the last sentence of Art. 2, Sec. 13 of the constitution of 1870.

Section 227. Rolling stock and other movable property of common carriers shall be subject to execution sale.

This section deals with the same subject as Art. 11, Sec. 10 of the constitution of 1870. The last clause of Art. 11, Sec. 10, which was superfluous, has been omitted. Art. 11, Sec. 10 defines this class of property as "personal property" and provides that it shall be liable to execution and sale

"in the same manner as the personal property of individuals." Section 227 omits the clause "shall be considered personal property," and also the requirement that the execution and sale shall be "in the same manner as the personal property of individuals."

ARTICLE XIII

CANALS AND WATERWAYS

Section 228. In addition to the proceeds of the twenty million dollars of bonds heretofore authorized for the deep waterway, ten million dollars may be appropriated therefor and all or part thereof secured by issuing bonds. The state shall make no other expenditure for any canal or waterway or appurtenance thereto except from the income thereof unless the expenditure is approved by a majority of all those voting at a general election.

The canal provisions of the constitution of 1870 are embodied in a separate section, which was amended in 1908, to authorize a $20,000,000 bond issue for the construction of a deep waterway, and the development of water power in connection therewith. Section 228 authorizes the appropriation of $10,000,000, "all or part thereof secured by issuing bonds," in addition to the $20,000,000 bond issue authorized by amendment of 1908. The provisions of the present canal section describing the route of the waterway have been omitted.

The present canal section provides that "the general assembly shall never loan the credit of the state or make appropriations from the treasury thereof in aid of railroads or canals; provided that any surplus earnings of any canal, waterway or water power may be appropriated or pledged for its enlargement, maintenance or extensions." In lieu of this, section 228 prohibits any expenditure, in addition to the $20,000,000 and $10,000,000 expressly authorized, for any canal, waterway or appurtenance thereto "except from the income thereof unless the expenditure is approved by a majority of all those voting at a general election."

Section 229. Except as provided in this article no waterway or canal owned or improved by the state shall be sold or leased until the proposition therefor is approved by a majority of those voting at a general election.

The constitution of 1870, as amended in 1908, provides "that the Illinois and Michigan canal, or other canal or waterway owned by the state shall never be sold or leased until the specific proposition for the sale or lease thereof shall first have been submitted to a vote of the people of the state at a general election and have been approved by a majority of all the votes polled at such election." Section 229 contains substantially the same provision but adds the clause "except as provided in this article," to cover an exception in section 230.

The canal section, as amended in 1908, provided that "All power developed from said waterway may be leased in part or in whole, as the gen-

eral assembly may by law provide." No such exception is contained in section 229, and there is no equivalent exemption as to water power in sections 230 and 231. Section 229 uses the terms "waterway or canal"; and section 231 speaks of "state canals and waterways and of state property held in connection therewith including water power." Apparently therefore the proposed constitution changes the present unrestricted grant of authority to lease water power into an express prohibition upon the sale or lease of such power without the approval of a popular vote. Section 231 apparently defines the words "waterway or canal" so as to include water power. The popular vote required is that of "a majority of those voting at a general election."

Section 230. The general assembly may authorize the lease of the Illinois and Michigan Canal or any part thereof to provide terminals in connection with the Illinois Waterway or other navigable channels. Such terminals shall be for public use without discrimination.

This section is new and reads an exception into section 229, by permitting without a referendum leases "to provide terminals" in certain cases.

Section 231. Leases of state canals and waterways and of state property held in connection therewith including water power shall be subject to revaluation every twenty years.

The present canal section provides "that in the event of any lease [of water power] being so executed, the rental specified therein for water power shall be subject to a revaluation each ten years of the term created." Section 231, which is broader in its scope, provides for revaluation every twenty years of "leases of state canals and waterways and of state property held in connection therewith including water power."

ARTICLE XIV

AMENDMENTS TO THE CONSTITUTION.

Section 232. Whenever two-thirds of the members of each house of the general assembly by a vote entered upon the journals concur that a convention is necessary to revise, alter or amend the constitution, the question shall be submitted to the electors at the next general election. If a majority voting at the election vote for a convention, the general assembly at the next session shall provide for a convention to consist of twice the number of members of the senate to be elected in the same manner, at the same places and in the same districts as senators, plus seven members to be elected at large from the county of Cook. The general assembly in the act of calling the convention shall designate the day, hour and place of its meeting, fix the pay of its members and officers and provide for their payment and for the expenses necessarily incurred by the convention in the perform-

ance of its duties. Before entering upon their duties the members shall take an oath to support the constitution of the United States and the constitution of Illinois and to discharge faithfully their duties as members of the convention. The qualifications of members shall be the same as those of senators and vacancies shall be filled in the manner provided for filling vacancies in the general assembly. The convention shall meet within three months after the election and prepare such revision, alteration or amendments of the constitution as it deems necessary. Such revision, alteration or amendments shall be submitted to the electors for their ratification or rejection at an election appointed by the convention for that purpose not less than two months nor more than six months after its adjournment. Unless so submitted and approved by a majority of those voting at the election no such revision, alteration or amendment shall take effect.

This section is the same as Art. 14, Sec. 1 of the constitution of 1870, except for the words "plus seven members to be elected at large from the county of Cook." It should be read in connection with section 23 under which Cook County is permanently given nineteen out of fifty-seven senators. Under the constitution of 1870 Cook County was entitled to its proportionate number of senatorial districts upon the basis of population, but the refusal of the general assembly to reapportion the state since 1901 has operated to restrict materially the representation of Cook County in the present convention. Under section 232 a future constitutional convention will be composed of one hundred and twenty-one members, of whom Cook County will have forty-five.

Section 233. Amendments to the constitution may be proposed in either house of the general assembly and if voted for by two-thirds of the members elected to each house such proposed amendments together with the yeas and nays of each house thereon shall be entered in full upon their respective journals. Such amendments shall be submitted in the manner prescribed by law to the electors for adoption or rejection at the next election for members of the general assembly and shall be published in full at least three months before the election. If electors equal in number to a majority of the votes cast for members of the house of representatives vote for the proposed amendments they shall become part of the constitution. The general assembly shall not propose amendments to more than two articles of the constitution at the same session nor to the same section oftener than once in four years.

Article 14, Sec. 2 of the constitution of 1870 contains provisions regarding the proposal of constitutional amendments by the general assembly. Section 233 makes three important changes: (1) The popular vote now required to adopt a constitutional amendment is "a majority of the electors" voting at a general election. Section 233 reduces this "to a majority of the votes cast for members of the house of representatives" at a general election. (2) The present constitution prohibits the proposal of "amendments to more than one article of this constitution at the same session." Section 233 permits the proposal of amendments to two articles at the same

session. (3) The present constitution prohibits the proposal of amendments "to the same article oftener than once in four years." Section 233 makes this limitation apply merely to the same section.

SCHEDULE

That no inconvenience may arise from the alterations and amendments made to the constitution of this state and to carry them into effect it is hereby ordained and declared:

Section 1. All laws in force at the adoption of this constitution not inconsistent therewith and all rights, actions, prosecutions, claims and contracts of this state or of individuals or of bodies corporate shall continue to be as valid as if this constitution had not been adopted. An act entitled "An Act to Revise the Law in Relation to Banks and Banking" approved June twenty-third, nineteen hundred nineteen, shall continue in force unchanged until the first day of July, nineteen hundred twenty-five and thereafter until revised, repealed, or amended.

This section is substantially the same as section 1 of the schedule of the constitution of 1870, except for the addition of the proviso concerning the banking act of 1919.

Section 2. All fines, taxes, penalties and forfeitures due this state under the present constitution and laws shall inure to the people of this state under this constitution.

This section is substantially the same as section 2 of the schedule of the constitution of 1870.

Section 3. Recognizances, bonds, obligations and all other instruments entered into before the adoption of this constitution to the people of this state or to any subdivision thereof or to any municipal corporation or to any public officer shall remain binding and valid. All crimes and misdemeanors shall be tried and punished as if no change had been made in the constitution of this state.

This section is substantially the same as section 3 of the schedule of the constitution of 1870.

Section 4. All persons now holding offices or appointments shall continue the exercise of the duties thereof according to their respective commissions or appointments unless otherwise directed by this constitution or other law.

This section is substantially the same as section 6 of the schedule of the constitution of 1870, except for the addition of the words "or other law."

Section 5. Except as otherwise provided in this constitution and subject to such changes in their duties as are prescribed therein, all persons elected to office at the election in November, nineteen

hundred twenty-two, shall continue in office during the terms for which they are respectively elected.

This section is new and is intended for the protection of candidates elected in 1922 and not in office when the proposed new constitution takes effect. It should be read with section 6 of the Schedule and with section 136 providing for annual elections in November outside of Cook County.

Section 6. In order that elections may be held regularly in November it is hereby provided as follows:

All officers elected to office prior to the election in November, nineteen hundred twenty-three, whose terms expire before that time shall hold office until their terms expire as now provided by law and at the expiration of their respective terms their successors shall be elected at that time to hold office during the regular terms provided by law and until their successors are elected at the next ensuing November election.

All officers elected to office prior to the election in November, nineteen hundred twenty-three, whose terms expire after that date and who are elected at other times than at the November election shall hold office for the terms for which they are elected and until their successors are elected at the next ensuing November election.

This section shall not apply to or within the county of Cook.

This section is new, and is intended to adjust terms of office as an incident to the operation of section 136 providing for annual elections in November in all parts of the state outside of Cook County.

Section 7. The first apportionment for senators after the adoption of this constitution shall provide that three of the additional senators shall be elected at the first election for terms of two years and the other three additional senators for terms of four years.

This section is new, and provides for the terms of the six additional senators whose offices are created by section 23.

Section 8. On the day this constitution is submitted to the people for ratification an election shall be held for two justices of the supreme court in the seventh judicial district. Every person in that judicial district who is entitled to vote for this constitution shall be entitled to vote for such justices. The election shall otherwise be conducted, returns made and certificates of election issued in accordance with existing laws. If it appears upon the canvassing of the votes for and against this constitution that this constitution is not adopted, then no certificates of election shall be issued for such justices. If they are elected and commissioned such justices shall hold office, one until the first Monday of June, nineteen hundred thirty-one and one until the first Monday of June, nineteen hundred thirty-three.

Successors to the justices now in office shall be elected in the seventh district on the first Monday of June and in the other districts on the first Tuesday after the first Monday of November in the years in which their respective terms expire. One justice for

each of the first and third districts shall be elected for a term to expire on the first Tuesday after the first Monday of November, nineteen hundred thirty-three; one justice for the second district shall be elected for a term to expire on the first Tuesday after the first Monday of November, nineteen hundred thirty-five; one justice for the fourth district shall be elected for a term to expire on the first Tuesday after the first Monday of November, nineteen hundred thirty-nine; one justice for each of the fifth and sixth districts shall be elected for a term to expire on the first Tuesday after the first Monday of November, nineteen hundred thirty-seven; one justice for the seventh district shall be elected for a term to expire on the first Monday of June, nineteen hundred thirty-five.

This section adjusts the terms of justices of the Supreme Court so that they will conform to the dates of election fixed by section 89.

The section also provides for the election at the time the proposed new constitution is submitted (December 12, 1922) of two additional justices of the Supreme Court from the seventh judicial district whose positions are created by section 88.

Section 9. The clerk of the supreme court and the clerks of the appellate courts in office at the time of the adoption of this constitution shall continue to hold office during the terms for which they are respectively elected.

Sections 94 and 99 give to the Supreme and appellate courts power to appoint their own clerks. Section 9 of the Schedule continues in office the present elective clerks during the terms for which they were elected.

Section 10. The judges of the circuit and superior courts of Cook county now serving as judges of the appellate court of the first district and its branches shall become judges of the appellate court of the first district under this constitution to hold office until January first, nineteen hundred twenty-nine. The judges of the appellate court of the second district, the appellate court of the third district and the appellate court of the fourth district under this constitution shall be appointed by the supreme court as soon as may be after the adoption of this constitution to hold office until January first, nineteen hundred twenty-eight.

Section 97 provides for the appointment of judges of the appellate courts by the Supreme Court. Section 10 of the Schedule provides that circuit and superior court judges of Cook County now serving as judges of the appellate court shall continue in office as appellate court judges until January 1, 1929, and section 13 of the Schedule abolishes their office as circuit and superior court judges. Judges of the appellate courts in other districts are to be appointed by the Supreme Court immediately upon the adoption of the proposed new constitution.

Section 11. Until otherwise provided by law judges of the appellate court of the first district shall each receive the same salary as is paid a judge of the circuit court of Cook county and

judges of the appellate courts of the second, third and fourth districts shall each receive a salary of eight thousand five hundred dollars per annum. Such salaries shall be payable in the same manner, at the same time and from the same sources as the salaries of judges of the circuit courts within such districts respectively.

This is a temporary provision as to salaries of the judges of the appellate courts. This provision should be read with section 127 which permits a higher salary for circuit and appellate court judges in Cook County, such excess to be paid by the county itself.

Section 12. On May seventh, nineteen hundred twenty-three, the circuit, superior, criminal, county and probate courts of Cook county, the municipal court of Chicago and the city court of Chicago Heights shall be consolidated into one court to be known as the circuit court of Cook county and thereupon all such courts except that last mentioned shall be abolished. The offices of judge and clerk of the city court of Chicago Heights shall thereupon be abolished.

This section carries out the provisions of section 105 by consolidating on May 7, 1923, the several trial courts now existing in Cook County. It should be noted that the offices of judge and clerk of the city court of Chicago Heights are abolished in 1923. The city courts elsewhere in the state are by the terms of section 22 of the Schedule abolished in 1927. (See comments under Sec. 115.)

Section 13. The judges of the circuit, superior, county and probate courts of Cook county and the chief justice of the municipal court of Chicago in office on May seventh, nineteen hundred twenty-three (except the judges of the circuit and superior courts of Cook county made judges of the appellate court of the first district by the adoption of this constitution whose offices as judges of the circuit and superior courts of Cook county thereby cease to exist) shall be judges of the circuit court of Cook county as thus consolidated and shall continue to hold office during the terms for which they are respectively elected or appointed and until their successors are elected and qualified. The associate judges of the municipal court of Chicago in office on May seventh, nineteen hundred twenty-three, shall be associate judges of the circuit court of Cook county as thus consolidated and shall continue to hold office during the terms for which they are respectively elected or appointed and until the first Monday of June next following, respectively, when their respective offices as associate judges of that court shall be abolished. There shall be elected to the office of judge of the circuit court of Cook county for terms of six years, except as hereinafter otherwise specifically provided, on the first Monday of June of the years following: In nineteen hundred twenty-three, nine judges as successors to the judges whose terms expire in that year; in nineteen hundred twenty-five, one judge as successor to the judge whose term expires in nineteen hundred twenty-four and one judge as successor to the judge whose term

expires in nineteen hundred twenty-five, together with eight additional judges; in nineteen hundred twenty-seven, two judges as successors to the judges whose terms expire in the year nineteen hundred twenty-six, and seventeen judges as successors to the judges whose terms expire in the year nineteen hundred twenty-seven; in nineteen hundred twenty-seven, eight additional judges for terms of four years; and in nineteen hundred twenty-nine, four judges as successors to the judges whose terms expire in the year nineteen hundred twenty-eight, nine judges as successors to the judges whose terms expire in the year nineteen hundred twenty-nine, together with eight additional judges, one of whom shall hold office for the term of two years.

This section is new. and is also inserted for the purpose of making temporary provisions regarding the consolidated court established for Cook County. The judges of the circuit, superior, county and probate courts of Cook County and the chief justice of the municipal court of Chicago (except the judges of the circuit and superior courts who become judges of the appellate court) are made judges of the new circuit court.

Associate judges of the municipal court become associate judges of the circuit court with the limited powers specified in section 14 of the Schedule, and with slightly extended terms.

The dates of election and terms relate to the first elections of judges of the new court and conform to the dates of election fixed in section 106. (See comments under Sec. 105.)

Section 14. Such associate judges of the circuit court of Cook county shall perform such judicial duties as may be assigned to them in the classes of cases which would have been within the jurisdiction of the criminal court of Cook county at the time of the adoption of this constitution and also in the classes of cases arising in the county of Cook which would have been within the jurisdiction of the municipal court of Chicago if they had arisen in the city of Chicago prior to the adoption of this constitution. During their respective terms of office as such associate judges they shall receive the salaries allowed them by the laws in force on May first, nineteen hundred twenty-two, one-half of which shall be payable out of the state treasury and one-half out of the treasury of the county of Cook.

This section is new and covers the powers and compensation of the associate judges of the municipal court who become by section 13 of the Schedule associate judges of the consolidated circuit court of Cook County. It will be noted that these associate judges receive the salaries in effect on May 1, 1922, one-half payable from the state treasury and one-half from the county treasury.

These associate judges will not have all of the judicial powers of judges of the circuit court, but will have such judicial duties as may be assigned them with respect to cases which are now within the jurisdiction of the criminal court of Cook County; and, in addition, jurisdiction throughout the whole county in cases such as are now within the jurisdiction of the

municipal court within the limits of the city of Chicago. This means that throughout the whole county these associate judges may be assigned to such civil and criminal cases as have heretofore been tried by the municipal court within the city of Chicago; and that throughout the whole county they may be assigned to criminal cases now handled in the criminal court of Cook County. These provisions prevent the use of associate judges of the municipal court in the exercise of civil jurisdiction which these judges do not now possess, except as their present civil jurisdiction may be extended over the whole of Cook County.

Section 15. The judges of the circuit courts in each circuit (other than the county of Cook) in office at the time of the adoption of this constitution shall continue to hold office during the terms for which they are elected or appointed and until their successors are elected and qualified.

This section is new, and merely continues in office during the terms for which they were elected judges now serving in the circuit court. (See comment, Sections 101, 102.)

Section 16. The judge of the county court of Cook county in office at the time of the adoption of this constitution shall continue to exercise during his term of office or until otherwise provided by law the same control and supervision over all matters of election as now provided by law. The general assembly prior to July first, nineteen hundred twenty-five, shall provide that all such authority and supervision shall devolve upon some elective county officer or officers.

This section is for the purpose of preserving in the judge of the county court of Cook County during the term for which he will be elected in November, 1922 (or until otherwise provided by law), the authority over elections now vested in him by law. To this extent one of the judges constituting the consolidated court under section 105 is given for a temporary period specific constitutional functions. Before July 1, 1925, the general assembly is required to provide that such supervision over elections "shall devolve upon some elective county officer or officers." It is doubtful whether the terms "county officer or officers" includes judges of the circuit court. Such judges are not county officers under section 160, and are more properly regarded as state officers. It will be noted that the power with respect to elections now vested by law in the county judge must by section 16 of the Schedule devolve upon some elective county officer or officers. This is apparently a permanent provision limiting the authority of the general assembly, so that it could not vest control over elections in Chicago in officers of the city. (See comment, Sec. 105.)

Section 17. On December third, nineteen hundred twenty-three, the county and probate courts in each county (other than the county of Cook) where both exist shall be consolidated into one court to be known as the county court.

This section carries out the plan of a consolidated county court provided in section 113, by consolidating on December 3, 1923, the county

and probate courts in each county other than the county of Cook. Section 12 of the Schedule consolidates both the county and the probate court of Cook County with other courts into a single circuit court.

Section 18. The judges of the county and probate courts (in counties other than the county of Cook) in office on December third, nineteen hundred twenty-three, shall be judges of the county court as thus consolidated, at which time the office of judge of the probate court or probate judge shall be abolished. They shall hold office during the terms for which they were elected and until their successors are elected and qualified. Counties having a population of less than seventy-five thousand, which have a county judge and a probate judge at the time of the adoption of this constitution, shall elect in nineteen hundred twenty-seven two county judges.

Section 18 of the Schedule should be read with section 17 of the Schedule. Section 17 consolidates the county and probate courts into the county court, and section 18 continues in office, as judges of the consolidated county court, the judges now sitting in the county and probate courts outside of Cook County. The last sentence of section 18 permits the election of two county judges in 1927 by counties having a population of less than 75,000, which have a county judge and a probate judge at the time of the adoption of the proposed new constitution. This continues an additional county judge for six years after 1927 in counties which by the terms of section 113 would not be entitled to such a judge. Probably by 1933 such counties will have sufficiently increased in population to be entitled to two judges under section 113.

Section 19. Unless the general assembly prior to December third, nineteen hundred twenty-three, fixes the salaries of county judges and probate judges (other than those of the county of Cook) who are made judges of the county courts as thus consolidated, the salaries of such judges after the date last mentioned and until otherwise provided by law shall be as follows: The present salary of each judge shall be increased to two thousand five hundred dollars in counties having a population of fifteen thousand or less, to four thousand dollars in counties having a population of more than fifteen thousand and less than forty thousand and to five thousand dollars in counties having a population of forty thousand or more. Each county shall continue to pay the present salaries until the whole of such salaries becomes payable out of the state treasury as provided in this constitution. Until that time the increases of salaries provided herein shall be payable monthly out of the state treasury. The word population as used in this section means the population as shown by the federal census of nineteen hundred twenty.

Section 127 provides that judges of the county courts shall be paid salaries by the state. Section 19 of the Schedule provides what shall be the salaries of judges of the county court after December 3, 1923, unless either before or after that date the general assembly shall prescribe other salaries for them. It also provides that each county shall continue to pay the present salaries until the whole of such salaries becomes payable out of the state treasury as provided in the proposed new constitution, and that the

increase shall be payable monthly out of the state treasury. When the general assembly acts and fixes such salaries they become payable in their entirety by the state.

Section 20. The provisions of section one hundred twenty-eight of this constitution so far as they affect the judges of county and probate courts (outside the county of Cook) shall not become effective until December third, nineteen hundred twenty-three, unless the general assembly provides that increased salaries be paid prior to that date.

This section is intended to exempt county and probate judges outside of Cook County from the prohibition against practicing law or receiving other compensation, until their salaries shall be increased in the manner indicated in section 19 of the Schedule. It is now common for county judges to practice law, and such judges receive very little compensation in some of the smaller counties.

Section 21. The clerk of the circuit court of Cook county in office on May seventh, nineteen hundred twenty-three, shall be clerk of that court as consolidated by this schedule. The clerks of the superior, criminal, county and probate courts of Cook county and the clerk of the municipal court of Chicago on that date shall become associate clerks of the circuit court of Cook county to hold office for the terms for which they are respectively elected; and as near as may be they shall exercise the same powers (including those relating to the appointment and discharge of employees and to the collection and disbursement of moneys), perform the same duties and receive the same salaries as on May seventh, nineteen hundred twenty-three. If a vacancy occurs in the office of clerk of the circuit court of Cook county prior to the election in November, nineteen hundred twenty-four, such vacancy shall be filled by a majority of the judges and associate judges of the circuit court of Cook county by appointing one of such associate clerks who shall hold office until the election in November, nineteen hundred twenty-four.

This section consolidates the offices of the various court clerks in Cook County, in accordance with the plan of section 105 for a single circuit court for that county. Section 21 of the Schedule continues, during the terms for which they were elected, the court clerks in office at the time of consolidation. Section 160 deals with the future election of clerks of the circuit court for all counties. (See comments, Sec. 105.)

Section 22. The circuit court of each county is hereby continued and on the first Monday of November, nineteen hundred twenty-seven, the circuit and city courts in each county (other than the county of Cook) where both courts exist shall be consolidated into one court to be known as the circuit court and thereupon the offices of judge and clerk of all such city courts shall be abolished.

This section consolidates circuit and city courts now existing in counties other than the county of Cook. Section 86 of the constitution does not permit the future creation of city courts. It will be noted that the city

courts outside of Cook County are consolidated with the circuit courts in 1927, while the city court of Chicago Heights is by section 12 of the Schedule abolished May 7, 1923.

Section 23. The offices of justice of the peace and constable existing at the time of the adoption of this constitution shall be abolished from and after the election or appointment and qualification of justices of the peace or constables in their respective districts, towns or portions of towns in accordance with the provisions of this constitution.

Section 23 of the Schedule should be read with sections 116 to 118 of the proposed new constitution. It is for the purpose of vacating the offices of justices of the peace and constables in Cook County upon appointments authorized by section 117, and also of vacating such offices in other counties upon the qualification of the justices and constables chosen as provided by sections 116 to 118.

Section 24. The clerk of the county court of each county (other than the county of Cook) in office on December third, nineteen hundred twenty-three, shall be clerk of the county court as consolidated by this schedule and the clerk of the probate court of each county (other than the county of Cook) having a probate clerk shall become the chief deputy county clerk of such county court during the term for which he is elected and at the salary received by him at the time of the adoption of this constitution; and as near as may be he shall exercise the same powers (including those relating to the appointment and discharge of employees and to the collection and disbursement of moneys) and perform the same duties as on December third, nineteen hundred twenty-three. At the expiration of the terms of office of the probate clerks in office on December third, nineteen hundred twenty-three, the office of probate clerk shall be abolished.

Section 24 of the Schedule consolidates the offices of the county and probate clerks outside of Cook County. It should be read with section 18 of the Schedule consolidating the county and probate courts outside of Cook County, and with sections 113 and 114 of the proposed new constitution. Sections 160 and 170 provide for the county clerk and that he shall be ex-officio clerk of the county court. Section 24 of the Schedule is merely transitional with respect to existing officers.

Section 25. The bailiff of the municipal court of Chicago in office on May seventh, nineteen hundred twenty-three, shall become associate sheriff of the county of Cook and hold office during the term for which he is elected. After the date last mentioned and during his term he shall receive the same salary and have as near as may be the same powers, duties and responsibilities as before that date, including the selection, appointment and removal of his employees and the collection and disbursement of moneys.

This section is new, and should be read with section 12 of the Schedule consolidating the municipal court of Chicago with the circuit court, and with sections 13 and 14 of the Schedule providing for the future status of

judges of the municipal court of Chicago. Section 25 merely continues during his present term the bailiff of the municipal court of Chicago, as an associate sheriff.

Section 26. Each court into which by the provisions of this constitution other courts are consolidated shall immediately upon such consolidation succeed to and assume jurisdiction of all causes, matters and proceedings then pending in all courts of which it is the successor, with full power and authority to dispose of them and to carry into execution or otherwise to give effect to all orders, judgments and decrees theretofore entered by the respective courts thus consolidated.

Section 26 merely continues cases and proceedings pending in courts consolidated with other courts by the terms of the proposed new constitution and its schedule, and transfers jurisdiction of such cases to the consolidated courts.

Section 27. From and after May seventh, nineteen hundred twenty-three, and until otherwise provided by law, all matters of fees and costs connected with proceedings in the circuit court of Cook county shall be regulated by rules to be adopted by the supreme court.

Section 27 is a temporary provision vesting in the Supreme Court until otherwise provided by law the regulation of fees and costs connected with proceedings in the circuit court of Cook County. This temporary power in the Supreme Court supplements the general power conferred by section 93 "to prescribe rules of pleading, practice and procedure in all courts."

Section 28. All judicial circuits established by law at the adoption of this constitution shall be preserved until changed by law.

Section 101 of the proposed new constitution prescribes the conditions under which and the times at which circuits may be changed. Section 28 of the Schedule merely provides for the preservation of circuits until changed by law.

Section 29. This constitution shall be submitted to the people of the State of Illinois for adoption or rejection at an election to be held on Tuesday December twelfth, nineteen hundred twenty-two. The county clerks of the respective counties of this state shall give notice between the first and tenth days of November, nineteen hundred twenty-two, in the manner required by law for notices of general elections that at such election this constitution will be submitted to the electors of this state for adoption or rejection.

This section and the six following sections prescribe in detail the method of submitting the proposed new constitution to the people on December 12, 1922. The plan adopted is that of voting upon the new constitution as a single document. All persons qualified to vote at other elections may vote upon the proposed new constitution. The terms of these sections

follow very closely the terms of existing law regarding the conduct of elections, making changes only where such changes are necessary in view of this being a special election for a specific purpose.

Section 30. Every person entitled to vote under the provisions of existing laws shall be entitled to vote for the adoption or rejection of this constitution and such persons shall vote by ballot. Such election shall be conducted and the returns thereof made according to the laws now in force regulating general elections.

Section 31. The officers now required by law in the case of general elections to provide election supplies for each precinct or district shall provide in the manner now required by law for conducting general elections all necessary poll books, tally sheets, forms of return, ballots and supplies for such election.

Section 32. The ballots to be used at such election shall be substantially in the following form:

Proposed New Constitution Election Ballot

SHALL THE PROPOSED NEW CONSTITUTION BE ADOPTED	YES	
	NO	

Section 33. The elector shall designate his vote by a cross mark thus, X, to be placed in one of the squares on the right-hand margin of the ballot.

Section 34. The ballots cast for and against the adoption of this constitution shall be received and canvassed by the judges and clerks of such election and returned as provided by law for general elections.

Section 35. Within fifteen days after such election, returns thereof shall be made by the several county clerks to the secretary of state which shall show (a) the aggregate number of electors voting in each county, (b) the aggregate number of votes cast for the adoption of this constitution and (c) the aggregate number of votes cast against the adoption of this constitution. Such returns shall within ten days thereafter be examined and canvassed by the secretary of state, the attorney general, the state treasurer and the auditor of public accounts or any three of them in the presence of the governor and proclamation shall be made by the governor forthwith of the result of the canvass. If it appears that a majority of the votes cast are for the adoption of the new constitution it shall be the supreme law of the State of Illinois on and after twelve o'clock noon of Monday January fifteenth, nineteen hundred twenty-three, and the existing constitution shall thereupon cease in all its provisions.

If adopted, the new constitution will be in effect on and after twelve o'clock noon of Monday, January 15, 1923.

PROVISIONS OF THE CONSTITUTION OF 1870 OMITTED FROM THE PROPOSED NEW CONSTITUTION

Certain provisions of the constitution of 1870, as indicated by the following explanatory comments, are omitted from the proposed new constitution.

Article 1

This article, which describes the boundaries of the state, is omitted. The proposed constitution contains nothing upon this subject. The omission is immaterial because the boundaries are fixed by act of Congress.

Article 4, Section 15

The clause "All such appointments and all votes given for any such members for any such office or appointment shall be void" is omitted. It is surplusage.

Article 4, Section 16

The sentence "The general assembly shall make no appropriation of money out of the treasury in any private law" and also the provision that bills "for the salaries of the officers of the government" shall contain no provision on any other subject are omitted.

The omission of the sentence concerning appropriations in private laws is immaterial because, under the construction placed upon it by the Illinois Supreme Court, it is practically meaningless. Other provisions of the constitution prohibit appropriations for private purposes.

The provision concerning appropriations for "officers of the [state] government" has been replaced in the proposed constitution (Sec. 37) by a provision that all the expenses of each of seven state offices shall be appropriated for in separate bills.

Article 4, Section 18

The provision that appropriations for state purposes shall not "exceed the amount of revenue authorized by law to be raised in such time" is omitted. The principle that appropriations shall not exceed revenue is important but the omitted provision is addressed primarily to the general assembly and is incapable of effective judicial enforcement. The omission leaves the matter of compliance with the principle to the general assembly.

Article 4, Section 21

The sentence relating to the compensation of members of the general assembly during the first session after the adoption of the constitution of 1870 is obsolete and is omitted. The provision of this section permitting an allowance of $50 per session to members of the general assembly for postage, stationery, etc., is omitted. Under section 52 of the proposed constitution, the perquisites of members are limited to their compensation and mileage as fixed by law. The provision of this section relating to the publication of pay and mileage of members of the general assembly is omitted, but is covered in substance by section 84 of the proposed constitution.

Article 4, Section 22

This section prohibits the passage of local or special laws in certain enumerated classes of cases. Most of its provisions are continued without substantial change by section 44 of the proposed constitution but the following clauses in the enumeration are omitted:

"Locating or changing county seats." The purpose of this clause is regarded as met by the prohibition of special legislation regulating county or town affairs and by the provisions of section 169 with respect to county seats.

"Regulating the practice in courts of justice; regulating the jurisdiction and duties of justices of the peace, police magistrates and constables; providing for changes of venue in civil and criminal cases," because the subject matter is covered by section 120.

"Providing for the election of members of the board of supervisors in townships, incorporated towns or cities," because its purpose is fully accomplished by the general prohibitions of special legislation with respect to municipal and town affairs.

"Creating, increasing or decreasing fees, percentage or allowances of public officers, during the term for which said officers are elected or appointed," because the subject is fully covered by the general prohibition on this subject contained in section 201.

Article 4, Section 25

This section is omitted. The provisions relating to the letting of contracts single out certain, specific matters about which there may have been abuses in 1870, but such provisions have no value under present conditions. The prohibition against state officers being interested in contracts is adequately covered by the general prohibition on that subject found in section 204.

Article 4, Section 26

This section is omitted. It provides that: "The State of Illinois shall never be made defendant in any court of law or equity." No such provision was found in the constitutions of 1818 and 1848. It was inserted in 1870 apparently to meet certain conditions about which there was then apprehension but which have long since passed. The general rule is that a state cannot be sued except in so far as it consents. Under this rule the whole question as to what extent and under what circumstances suits may be brought against the state is within the control of the general assembly.

Article 4, Section 33

This section relates to appropriations for the construction of the state capitol. Its provisions are now obsolete.

Article 4, Section 34

This section is omitted, but the subject matter of its provisions so far as they relate to the framing of a charter, the consolidation of local governments, the increase of debt incurring power in case of such consolidation, the requirement of a popular vote on new bonded indebtedness, and the levy and collection of taxes, is dealt with in the sections of the proposed constitution granting home rule powers to the city of Chicago. (See Secs. 178 to 193.)

The provisions of this section, relating to the abolition of the offices of justices of the peace and constables within the city, and with respect to special legislation regulating the jurisdiction, practice and procedure in

municipal courts, are omitted. Justices of the peace were abolished in Chicago in 1905, and no provision for their future establishment is contained in the proposed constitution. The provision regarding the municipal court becomes obsolete with the merger of that court in the new circuit court of the county as provided in section 12 of the Schedule.

Article 5, Section 7

The provisions of this section, requiring the governor to account and to submit to the general assembly a statement of moneys received and paid out by him "with vouchers," and "at the commencement of each regular session [to] present estimates of the amount of money required to be raised by taxation for all purposes," are omitted. The present requirement as to vouchers is unimportant and adds nothing in substance to the obligation of the governor. Under the civil administrative code the governor has full statutory power to present estimates of appropriations and proposals for raising revenue.

Article 5, Section 12

The clause "and he may declare his office vacant, and fill the same as is herein provided in other cases of vacancy" is omitted. In view of the provisions of section 75, limiting the power of the governor to fill vacancies to those offices where the appointing power is vested in him in the first instance, the clause becomes surplusage.

Article 5, Section 14

The clause, "(except when they shall be called into the service of the United States)" is omitted, but the change is an immaterial one.

Article 5, Section 21

The clause "together with the reports of the judges of the Supreme Court of defects in the constitution and laws" is omitted. Section 31 of Art. 6 requiring such reports is also omitted from the proposed constitution and the omitted clause in this section would, therefore, be meaningless if it were continued.

Article 6, Section 1

The clause vesting judicial powers "in such courts as may be created by law in and for cities and incorporated towns" is omitted, in view of the reorganization of the court system and the abolition of all city courts after 1927. The words "police magistrates" are also omitted. The term "police magistrates" is equivalent to "justices of the peace" which is retained in the revision of the section.

Article 6, Sections 4, 5 and 8

The provisions of these sections so far as they relate to "grand divisions" are omitted. "Grand divisions" were abolished by statute in 1897 and since that time the Supreme Court has held its sessions at Springfield.

The provision of Sec. 5 that "the boundaries of the [Supreme Court] districts may be changed at the session of the general assembly next preceding the election of judges therein and at no other time" is omitted. Section 88 of the proposed constitution continues the existing Supreme Court districts until "otherwise provided by law," but there is no limitation on the general assembly as to when a reapportionment may be made.

Article 6, Section 10

This section, which provides for the election of clerks of the Supreme Court, is omitted, since under section 94 provision is made for the appointment of the clerk of the Supreme Court by the court itself.

Article 6, Section 11

The provision that no judge of the appellate court shall sit in review upon cases decided by him in the trial court is omitted, because it would have no application under the new court organization. Under the new plan appellate courts are to be held by judges, who will not sit in the trial of cases that may subsequently be heard in the appellate courts.

Article 6, Section 17

The provisions of this section so far as they relate to the qualifications of members of the "board of county commissioners" in counties not under township organization are omitted. These provisions now apply in only 17 counties in the state. Under the proposed constitution qualifications of county commissioners will be governed by section 195 applicable to all constitutional officers and requiring residence in the state for one year.

Article 6, Section 18

The provision for an elective clerk of the county court is omitted. Under section 170 of the proposed constitution, the county clerk is made ex-officio clerk of the county court. This provision in section 170 merely continues what is the present practice under the statute. The omission, therefore, makes no change in substance.

Article 6, Section 20

This section, which authorizes the general assembly to provide for the establishment of probate courts, is omitted because of the new plan of court organization embodied in the proposed constitution, under which probate and county courts are consolidated and the county court is provided with an adequate number of judges for the transaction of the business now handled through probate courts.

Article 6, Sections 23, 24, 26 and 27

The provisions of these sections, relating to the superior court of Cook County, the recorder's court of Cook County, the manner of selecting the chief justice of the circuit court, and the powers of circuit court judges, are all omitted. They become entirely obsolete under the court organization plan found in sections 105 and 109 of the proposed constitution.

Article 6, Section 25

The provision concerning the compensation of the state's attorney of Cook county is omitted. This compensation will as heretofore be within the control of the general assembly.

Article 6, Section 28

This section which provides for the appointment of justices of the peace within the city of Chicago is omitted. It has been obsolete since 1905 when justices of the peace in the city of Chicago were abolished through the creation of the municipal court.

Article 6, Section 31

This section, requiring reports from judges concerning defects in the laws is omitted from the proposed constitution. Its provisions have seldom been complied with by the courts.

Article 6, Section 32

The provisions of this section, relating to the terms of officers where not otherwise prescribed in the judiciary article and to the duties and compensation of such officers, are omitted. The last sentence of this section, relating to the manner in which vacancies shall be filled by appointment, is also omitted. Certain of the offices named have been specifically covered in different sections of the proposed constitution. No provision, however, is made therein for the filling of vacancies in the offices of state's attorneys and constables, except the general provision of section 137 which prescribes the circumstances under which temporary vacancies may be filled, but under which the general assembly will be required to designate the person who will make appointments to fill such vacancies.

Article 6, Section 33

The last sentence of this section, defining the term "Population" is omitted, except as it is found in a modified form in section 19 of the Schedule.

Article 7, Section 1

The obsolete language of this section, relating to electors in 1848 and 1870, is omitted.

Article 8, Section 4

The restriction of this section, so far as it relates to teachers, is omitted.

Article 9, Section 3

The last sentence of this section is omitted. The principle therein stated is necessarily implied. The sentence is, therefore, surplusage.

Article 9, Section 5

The specific provisions of this section relating to notice, which in operation have been found cumbersome and impractical, are omitted and the whole subject of notice in such cases is left within the control of the general assembly by section 149.

Article 9, Section 8

The exception of this section, relating to indebtedness existing at the adoption of the constitution of 1870, is obsolete and is omitted. However, section 177 relating to county taxes in Cook County contains an exception covering additional taxes that have been approved upon referendum for the payment of the principal and interest on bonds now outstanding.

Article 9, Section 12

The last paragraph of this section is omitted. It is obsolete.

Article 9, Section 13

This section, authorizing the issuance of World's Fair bonds, is omitted. It is obsolete.

Article 10, Section 5

The specific provisions of this section, requiring the general assembly to provide for the organization of counties under the township plan are omitted. The proposed constitution in section 163 recognizes this type of organization so far as it now exists. Apparently future changes to some other plan would be controlled by the provisions of section 166 except as changes to the three-member board type of organization may be authorized by section 167 and by present or future legislation not in conflict therewith.

The specific provision of Sec. 5 authorizing a change from the township type to the three-member board type of county organization and vice versa is also omitted, but, as above indicated, section 167 when read in connection with section 163 may be construed to permit changes back and forth from one type of organization to the other under present or future legislation.

Article 10, Section 8

The provisions of this section, relating to the election of a county judge and prohibiting the sheriff from succeeding himself in office, are omitted. The election of a county judge in counties other than Cook is provided for in section 113 and the omission here noted merely operates to take him out of the list of county officers.

In counties not under township organization, the sheriff is now ex-officio collector of taxes. The proposed constitution (Sec. 160) provides that the county treasurer shall be ex-officio collector of taxes in all counties until otherwise provided by law. This provision will operate to relieve the sheriff of his duties as tax collector and accounts for the omission of the present provision prohibiting him from succeeding himself in office.

Article 10, Section 9

The provision of this section limiting compensation to fees collected is omitted.

Article 10, Section 10

The provisions limiting the compensation of county officers and also the provision that in all cases where fees are provided the compensation of such officers shall be paid only out of fees collected are omitted. Under section 171 of the proposed constitution the compensation of constitutional county officers, in counties other than Cook, is to be fixed by the county boards.

Article 10, Section 11

The second sentence of this section is omitted. The matter therein is obsolete.

Article 10, Section 12

The first sentence of this section is omitted. It is obsolete. The last sentence is also omitted for the same reason. In the revision of the remainder of the section as it appears in section 165 fees to be collected for services rendered by state officers are not covered as they are in Art. 10, Sec. 12. This omission is immaterial since the subject of such fees is completely within the control of the general assembly in the absence of constitutional limitations. The provision of Art. 10, Sec. 12 that fees of state, county and township officers shall be limited to reasonable compensation for services actually rendered is omitted.

Article 11, Section 1

The clause "but the general assembly shall provide by general laws for the organization of all corporations hereafter to be created" is omitted. It is surplusage. When the organization of corporations by special law is prohibited as in both the present and proposed constitutions there is no occasion for a direction to the general assembly to provide for such organization by general law.

Article 11, Section 2

This section is omitted. It is obsolete.

Article 11, Section 3

This section provides an exclusive method of stock voting for all corporations. It is omitted, except as its provisions are continued in section 64 of the proposed constitution, by which they are made applicable to banking corporations only. The exclusive method prescribed in this section has prohibited the general assembly from regulating stock voting in all corporations. The omission of this section so far as it relates to corporations, other than banking corporations, will leave the general assembly free to regulate stock voting in all except banking corporations. And such power to regulate will include the power to provide for classes of stock issues and to differentiate as to the voting rights of the holders of different classes thereof.

Article 11, Section 5

The provision of this section requiring a popular vote upon banking laws and amendments thereto is omitted. This requirement was important in 1848 and 1870, as a means of dealing with the then existing evils with respect to banking legislation. Such a provision is no longer necessary and therefore is omitted.

Article 11, Sections 7 and 8

The constitution of 1870 permits banks of issue and contains in these sections detailed provisions regulating such banks. No state banks of issue have existed since the period of the Civil War and none are likely to exist in the future, in view of the Federal policy of taxing state bank issues. The Convention, therefore, deemed it wise to forbid the creation of state banks of issue (Sec. 49) and in view of the policy thus established Sections 7 and 8 of Art. 11 become surplusage and are omitted on that ground.

Article 11, Section 9

This section is omitted. No reason for the omission appears in the reports of the Convention.

Article 11, Section 10

The provisions of this section that rolling stock and all other movable property of railroad companies "shall be considered personal property" and shall be liable to execution and sale "in the same manner as the personal property of individuals" are omitted. The Convention regarded them as unnecessary and cumbersome in operation.

Article 11, Sections 11 and 13

These sections are omitted. No reason for the omissions appears in the reports of the Convention.

Article 11, Section 14

This section is omitted except as the substance of the first sentence is found in section 180 where it applies only to the city of Chicago. The omission with respect to other agencies exercising the power of eminent domain is immaterial. The Illinois Supreme Court has held that this section "was inserted out of an abundance of caution" and that it is simply a declaration of the law as known before the declaration was made. The last sentence of the section relating to trial by jury is adequately covered by the provisions of section 13 of the proposed constitution.

Article 12, Section 2

This section is omitted. It is unnecessary since the subject is regulated by the Federal constitution and laws.

Article 12, Section 5

The last clause of this section is omitted. It is surplusage.

Separate Section 3 entitled "Municipal Subscriptions to Railroads or Private Corporations"

This section is omitted. Apparently the omission is made on the theory that the subject is adequately covered by section 139, which prohibits the levying of taxes except for "public purposes". Donations to private corporations for private purposes are clearly so prohibited, but the question as to whether a donation to a railroad company would come within the scope of the prohibition would depend upon whether the courts would now hold such a donation not to be for a "public purpose". Such donations were not prohibited prior to the constitution of 1870.

Separate Section 4 Entitled "Canals"

Separate section 4 entitled "Canals" provides that "the general assembly shall never loan the credit of the state or make appropriations from the treasury thereof in aid of railroads or canals". This provision, with certain modifications, is continued in the proposed constitution, so far as it relates to canals, but is omitted with respect to railroads. (Section 228.)

The provisions of Section 157 would clearly prohibit the use of the money or credit of the state in aid of privately owned railroads. In this respect, therefore, the omission is immaterial. Under the proposed constitution the state probably would not be prohibited from using its money for the acquisition of state owned railroads. The provision of section 139 that taxes shall be levied only for public purposes apparently would not prohibit the use of state funds for the direct acquisition and ownership of railroads because in all likelihood such use would be held to be within the term "public purpose".

CONSTITUTION OF THE STATE OF ILLINOIS

ADOPTED IN CONVENTION AT SPRINGFIELD, MAY 13, A. D. 1870.

Ratified by the People July 2, 1870; in force August 8, 1870; amended in 1878, 1880, 1884, 1886, 1890, 1898, 1904 and 1908.

[Section numbers in cross references are to sections of the proposed new constitution; page references are to pages of this pubilcation.]

PREAMBLE.

We, the people of the State of Illinois—grateful to Almighty God for the civil, political and religious liberty which He hath so long permitted us to enjoy, and looking to Him for a blessing upon our endeavors to secure and transmit the same unimpaired to succeeding generations—in order to form a more perfect government, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessing of liberty to ourselves and our posterity, do ordain and establish this Constitution for the State of Illinois.

[See Preamble.]

ARTICLE I.

BOUNDARIES.

The boundaries and jurisdiction of the State shall be as follows, to-wit: Beginning at the mouth of the Wabash River, thence up the same, and with the line of Indiana to the northwest corner of said state; thence east with the line of the same state, to the middle of Lake Michigan; thence north along the middle of said lake to north latitude forty-two degrees and thirty minutes, thence west to the middle of the Mississippi River, and thence down along the middle of that river to its confluence with the Ohio River, and thence up the latter river along its northwestern shore to the place of beginning: *Provided*, that this State shall exercise such jurisdiction upon the Ohio River as she is now entitled to, or such as may hereafter be agreed upon by this State and the state of Kentucky.

[This article has been omitted from the proposed new constitution. The omission is immaterial because the boundaries of the state are fixed by Act of Congress.]

ARTICLE II.

BILL OF RIGHTS.

§ 1. Inherent and inalienable rights.
§ 2. Due process of law.
§ 3. Liberty of conscience guaranteed.
§ 4. Freedom of speech—libel.
§ 5. Right of trial by jury.
§ 6. Unreasonable searches and seizures.
§ 7. Bail allowed—writ of *habeas corpus*.
§ 8. Indictment required—grand jury.
§ 9. Rights of persons accused of crime.
§ 10. Self crimination—acquittal.
§ 11. Penalties no corruption of blood or forfeiture of estate.
§ 12. Imprisonment for debt.
§ 13. Compensation for property taken.
§ 14. *Ex post facto* laws—contracts—irrevocable grants.
§ 15. Military subordinate to civil power.
§ 16. Quartering of soldiers.
§ 17. Right of assembly and petition.
§ 18. Elections to be free and equal.
§ 19. Protection of the laws.
§ 20. Fundamental principles.

§ 1. All men are by nature free and independent, and have certain inherent and inalienable rights—among these are life, liberty and the pursuit of happiness. To secure these rights and the protection of property, govern-

ments are instituted among men, deriving their just powers from the consent of the governed.

[See Section 1.]

§ 2. No person shall be deprived of life, liberty or property without due process of law.

[See Section 2.]

§ 3. The free exercise and enjoyment of religious profession and worship, without discrimination, shall forever be guaranteed; and no person shall be denied any civil or political right, privilege or capacity on account of his religious opinions; but the liberty of conscience hereby secured shall not be construed to dispense with oaths or affirmations, excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of the State. No person shall be required to attend or support any ministry or place of worship against his consent, nor shall any preference be given by law to any religious denomination or mode of worship.

[See Section 3.]

§ 4. Every person may freely speak, write and publish on all subjects, being responsible for the abuse of that liberty; and in all trials for libel, both civil and criminal, the truth when published with good motives and for justifiable ends, shall be a sufficient defense.

[See Section 4.]

§ 5. The right of trial by jury, as heretofore enjoyed, shall remain inviolate; but the trial of civil cases before justices of the peace, by a jury of less than twelve men, may be authorized by law.

[See Section 5.]

§ 6. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, shall not be violated; and no warrant shall issue without probable cause, supported by affidavit, particularly describing the place to be searched, and the person or things to be seized.

[See Section 6.]

§ 7. All persons shall be bailable, by sufficient sureties, except for capital offenses where the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

[See Section 7.]

§ 8. No person shall be held to answer for a criminal offense, unless on indictment of a grand jury, except in cases in which the punishment is by fine, or imprisonment otherwise than in the penitentiary, in cases of impeachment, and in cases arising in the army and navy, or in the militia, when in actual service in time of war or public danger: *Provided*, that the grand jury may be abolished by law in all cases.

[See Section 8.]

§ 9. In all criminal prosecutions the accused shall have the right to appear and defend in person and by counsel; to demand the nature and cause of the accusation, and to have a copy thereof; to meet the witnesses face to face, and to have process to compel the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed.

[See Section 9.]

§ 10. No person shall be compelled in any criminal case to give evidence against himself, or to be twice put in jeopardy for the same offense.

[See Section 10.]

§ 11. All penalties shall be proportioned to the nature of the offense; and no conviction shall work corruption of blood or forfeiture of estate; nor shall any person be transported out of the State for any offense committed within the same.

[See Section 11.]

§ 12. No person shall be imprisoned for debt, unless upon refusal to deliver up his estate for the benefit of his creditors, in such manner as shall be prescribed by law; or in cases where there is strong presumption of fraud.

[See Section 12.]

§ 13. Private property shall not be taken or damaged for public use without just compensation. Such compensation, when not made by the State, shall be ascertained by a jury, as shall be prescribed by law. The fee of land taken for railroad tracks, without consent of the owners thereof, shall remain in such owners, subject to the use for which it is taken.

[See Sections 13, 60, 180, 226.]

§ 14. No *expost facto* law, or law impairing the obligation of contracts, or making any irrevocable grant of special privilege or immunities, shall be passed.

[See Section 14.]

§ 15. The military shall be in strict subordination to the civil power.

[See Section 15.]

§ 16. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war except in the manner prescribed by law.

[See Section 15.]

§ 17. The people have the right to assemble in a peaceable manner to consult for the common good, to make known their opinions to their representatives, and to apply for redress of grievances.

[See Section 16.]

§ 18. All elections shall be free and equal.

[See Section 17.]

§ 19. Every person ought to find a certain remedy in the laws for all injuries and wrongs which he may receive in his person, property or reputation; he ought to obtain by law, right and justice freely, and without being obliged to purchase it, completely and without denial, promptly and without delay.

[See Section 18.]

§ 20. A frequent recurrence to the fundamental principles of civil government is absolutely necessary to preserve the blessings of liberty.

[See Section 1.]

Article III.

DISTRIBUTION OF POWERS.

The powers of the government of this State are divided into three distinct departments—the Legislative, Executive and Judicial; and no person, or collection of persons, being one of these departments, shall exercise any power properly belonging to either of the others, except as hereinafter expressly directed or permitted.

[See Section 20.]

Article IV.

LEGISLATIVE DEPARTMENT.

§ 1. General Assembly.
§ 2. Elections—vacancies.
§ 3. Who are eligible.
§ 4. Disqualification by crime.
§ 5. Oath of office.
§ 6. Senatorial apportionment.
§ 7 and 8. Representatives — (Inoperative).
§ 7 and 8. Minority representation.
§ 9. Time of meeting—general rules.
§ 10. Open sessions — adjournments — Journals—protests.
§ 11. Style of laws.
§ 12. Origin and passage of bills.
§ 13. Reading — printing — title — amendments.
§ 14. Privileges of members.
§ 15. Disabilities of members.
§ 16. Appropriations.
§ 17. Payment of money—statement of expenses.
§ 18. Ordinary expenses — casual deficits—appropriations limited.
§ 19. Extra compensation or allowance.
§ 20. Public credit not loaned.
§ 21. Pay and mileage of members.
§ 22. Special legislation prohibited.
§ 23. Against release from liability.
§ 24. Proceedings on impeachment.
§ 25. Fuel, stationery and printing.
§ 26. State not to be sued.
§ 27. Lotteries and gift enterprises.
§ 28. Terms of office not extended.
§ 29. Protection of miners.
§ 30. Concerning roads — public and private.
§ 31. Drainage and ditching.
§ 32. Homestead and exemption laws.
§ 33. Completion of the State House.

§ 1. The legislative power shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives, both to be elected by the people.

[See Section 22.]

ELECTION.

§ 2. An election for members of the General Assembly shall be held on the Tuesday next after the first Monday in November, in the year of our Lord one thousand eight hundred and seventy, and every two years thereafter, in each county, at such places therein as may be provided by law. When vacancies occur in either house, the Governor, or person exercising the powers of Governor, shall issue writs of election to fill such vacancies.

[See Section 26.]

ELIGIBILITY AND OATH.

§ 3. No person shall be a senator who shall not have attained the age of 25 years, or a representative who shall not have attained the age of 21 years. No person shall be a senator or representative who shall not be a citizen of the United States and who shall not have been for five years a resident of this State, and for two years next preceding his election a resident within the territory forming the district from which he is elected. No judge or clerk of any court, Secretary of State, Attorney General, State's attorney, recorder, sheriff, or collector of public revenues, members of either house of Congress, or persons holding any lucrative office under the United States or this State, or any foreign government, shall have a seat in the General Assembly: *Provided*, that appointments in the militia, and the offices of notary public and justice of the peace shall not be considered lucrative. Nor shall any person holding any office of honor or profit under any foreign government, or under the government of the United States, (except postmasters whose annual compensation does not exceed the sum of $300.00) hold any office of honor or profit under the authority of this State.

[See Sections 25 and 196.]

§ 4. No person who has been, or hereafter shall be convicted of bribery, perjury or other infamous crime, nor any person who has been or may be a collector or holder of public moneys, who shall not have accounted for and paid over, according to law, all such moneys due from him, shall be eligible to the General Assembly, or to any office or profit or trust in this State.

[See Section 196.]

§ 5. Members of the General Assembly, before they enter upon their official duties, shall take and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Illinois, and will faithfully discharge the duties of Senator (or Representative) according to the best of my ability; and that I have not knowingly or intentionally paid or contributed anything, or made any promise in the nature of a bribe to directly or indirectly influence any vote at the election at which I was chosen to fill the said office, and have not accepted, nor will I accept or receive, directly or indirectly, any money or other valuable thing from any corporation, company or person for any vote or influence I may give or withhold on any bill, resolution or appropriation or for any other official act."

This oath shall be administered by a judge of the Supreme or circuit court in the hall of the house to which the member is elected, and the Secretary of State shall record and file the oath subscribed by each member. Any member who shall refuse to take the oath herein prescribed shall forfeit his office, and every member who shall be convicted of having sworn falsely to, or of violating his said oath, shall forfeit his office and be disqualified thereafter from holding any office of profit or trust in this State.

[See Section 29.]

APPORTIONMENT—SENATORIAL.

§ 6. The General Assembly shall apportion the State every ten years, beginning with the year one thousand eight hundred and seventy-one, by dividing the population of the State, as ascertained by the federal census, by the number fifty-one, and the quotient shall be the ratio of representation in the senate. The State shall be divided into fifty-one senatorial districts, each of which shall elect one senator, whose term of office shall be four years. The senators elected in the year of our Lord one thousand eight hundred and seventy-two, in districts bearing odd numbers, shall vacate their offices at the end of two years, and those elected in districts bearing even numbers at the end of four years, and vacancies occurring by the expiration of term shall be filled by the election of senators for the full term. Senatorial districts shall be formed of contiguous and compact territory, bounded by county lines, and contain as nearly as practicable an equal number of inhabitants; but no district shall contain less than four-fifths of the senatorial ratio. Counties containing not less than the ratio and three-fourths may be divided into separate districts, and shall be entitled to two senators, and to one additional senator for each number of inhabitants equal to the ratio contained by such counties in excess of twice the number of said ratio.

[See Sections 23 and 26.]

MINORITY REPRESENTATION.

§§ 7 and 8. The House of Representatives shall consist of three times the number of the members of the Senate, and the term of office shall be two years. Three representatives shall be elected in each senatorial district at the general election in the year of our Lord one thousand eight hundred and seventy-two, and every two years thereafter. In all elections of representatives aforesaid, each qualified voter may cast as many votes for one candidate as there are representatives to be elected, or may distribute the same, or equal parts thereof, among the candidates, as he shall see fit; and the candidates highest in votes shall be declared elected.

[See Sections 23 and 26.]

TIME OF MEETING AND GENERAL RULES.

§ 9. The sessions of the General Assembly shall commence at 12:00 o'clock noon, on the Wednesday next after the first Monday in January, in the year next ensuing the election of members thereof, and at no other time, unless as provided in this Constitution. A majority of the members elected to each house shall constitute a quorum. Each house shall determine the rules of its proceedings, and be the judge of the election, returns and qualifications of its members; shall choose its own officers; and the Senate shall

choose a temporary president to preside when the Lieutenant Governor shall not attend as president, or shall act as Governor. The Secretary of State shall call the House of Representatives to order at the opening of each new assembly, and preside over it until a temporary presiding officer thereof shall have been chosen and shall have taken his seat. No member shall be expelled by either house, except by a vote of two-thirds of all the members elected to that house, and no member shall be twice expelled for the same offense. Each house may punish by imprisonment any person not a member who shall be guilty of disrespect to the house by disorderly or contemptuous behavior in its presence. But no such imprisonment shall extend beyond twenty-four hours at one time, unless the person shall persist in such disorderly or contemptuous behavior.

[See Sections 27 and 30.]

§ 10. The door of each house and of committees of the whole shall be kept open, except in such cases as, in the opinion of the house, require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days, or to any other place than that in which the two houses shall be sitting. Each house shall keep a journal of its proceedings, which shall be published. In the Senate, at the request of two members, and in the house, at the request of five members, the yeas and nays shall be taken on any question, and entered upon the journal. Any two members of either house shall have liberty to dissent from and protest, in respectful language, against any act or resolution which they think injurious to the public or to any individual, and have the reasons of their dissent entered upon the journal.

[See Section 31.]

STYLE OF LAWS AND PASSAGE OF BILLS.

§ 11. The style of the laws of this State shall be: *"Be it enacted by the People of the State of Illinois, represented in the General Assembly."*

[See Section 35.]

§ 12. Bills may originate in either house, but may be altered, amended or rejected by the other; and, on the final passage of all bills, the vote shall be by yeas and nays, upon each bill separately, and shall be entered upon the journal; and no bill shall become a law without the concurrence of a majority of the members elected to each house.

[See Sections 34 and 41.]

§ 13. Every bill shall be read at large on three different days, in each house; and the bill and all amendments thereto shall be printed before the vote is taken on its final passage; and every bill, having passed both houses, shall be signed by the speaker thereof. No act hereafter passed shall embrace more than one subject, and that shall be expressed in the title. But if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be so expressed; and no law shall be revived or amended by reference to its title only, but the law revived, or the section amended, shall be inserted at length in the new act. And no act of the General Assembly shall take effect until the first day of July next after its passage, unless, in case of emergency (which emergency shall be expressed in the preamble or body of the act), the General Assembly shall, by a vote of two-thirds of all the members elected to each house, otherwise direct.

[See Sections 36, 40, 41 and 43.]

PRIVILEGES AND DISABILITIES.

§ 14. Senators and Representatives shall, in all cases, except treason, felony or breach of the peace, be privileged from arrest during the session of the General Assembly, and in going to and returning from the same; and

for any speech or debate in either house, they shall not be questioned in any other place.

[See Section 53.]

§ 15. No person elected to the General Assembly shall receive any civil appointment within the State from the Governor, the Governor and Senate, or from the General Assembly, during the term for which he shall have been elected; and all such appointments, and all votes given for any such members for any such office or appointment, shall be void; nor shall any member of the General Assembly be interested, either directly or indirectly, in any contract with the State, or any county thereof, authorized by any law passed during the term for which he shall have been elected, or within one year after the expiration thereof.

[See Sections 54 and 55; also p. 99. Compare Sections 204 and 211.]

PUBLIC MONEYS AND APPROPRIATIONS.

§ 16. The General Assembly shall make no appropriation of money out of the treasury in any private law. Bills making appropriations for the pay of members and officers of the General Assembly, and for the salaries of the officers of the government shall contain no provision on any other subject.

[See Section 37. The first sentence of this section and also the provisions of the second sentence relating to appropriations for salaries of officers other than members and officers of the General Assembly have been omitted. See p. 99.]

§ 17. No money shall be drawn from the treasury except in pursuance of an appropriation made by law, and on the presentation of a warrant issued by the Auditor thereon; and no money shall be diverted from any appropriation made for any purpose, or taken from any fund whatever, either by joint or separate resolution. The Auditor shall, within sixty days after the adjournment of each session of the General Assembly, prepare and publish a full statement of all money expended at such session, specifying the amount of each item, and to whom and for what paid.

[See Sections 84 and 154.]

§ 18. Each General Assembly shall provide for all the appropriations necessary for the ordinary and contingent expenses of the government until the expiration of the first fiscal quarter after the adjournment of the next regular session, the aggregate amount of which shall not be increased without a vote of two-thirds of the members elected to each house, nor exceed the amount of revenue authorized by law to be raised in such time; and all appropriations, general or special, requiring money to be paid out of the State treasury, from funds belonging to the State, shall end with such fiscal quarter: *Provided*, the State may, to meet casual deficits or failures in revenues, contract debts, never to exceed in the aggregate two hundred and fifty thousand dollars, and moneys thus borrowed shall be applied to the purpose for which they were obtained, or to pay the debt thus created, and to no other purpose; and no other debt, except for the purpose of repelling invasion, suppressing insurrection, or defending the State in war (for payment of which the faith of the State shall be pledged), shall be contracted, unless the law authorizing the same shall, at a general election, have been submitted to the people and have received a majority of the votes cast for members of the General Assembly at such election. The General Assembly shall provide for the publication of said law for three months, at least, before the vote of the people shall be taken upon the same; and provision shall be made, at the time, for the payment of the interest annually, as it shall accrue, by a tax levied for the purpose, or from other sources of revenue; which law, providing for the payment of such interest by such tax, shall be irrepealable until such debt be paid: *And, provided, further*, that the law

levying the tax shall be submitted to the people with the law authorizing the debt to be contracted.

[See Sections 153 and 155; also p. 99.]

§ 19. The General Assembly shall never grant or authorize extra compensation, fee or allowance to any public officer, agent, servant or contractor, after service has been rendered or a contract made, nor authorize the payment of any claim, or part thereof, hereafter created against the State under any agreement or contract made without express authority of law; and all such unauthorized agreements or contracts shall be null and void: *Provided*, the General Assembly may make appropriations for expenditures incurred in suppressing insurrection or repelling invasion.

[See Sections 158 and 202.]

§ 20. The State shall never pay, assume or become responsible for the debts or liabilities of, or any manner give, loan or extend its credit to, or in aid of, any public or other corporation, association or individual.

[See Section 157.]

PAY OF MEMBERS.

§ 21. The members of the General Assembly shall receive for their services the sum of five dollars per day, during the first session held under this Constitution, and ten cents for each mile necessarily travelled in going to and returning from the seat of government, to be computed by the Auditor of Public Accounts; and thereafter such compensation as shall be prescribed by law, and no other allowance or emolument, directly or indirectly, for any purpose whatever, except the sum of fifty dollars per session to each member, which shall be in full for postage, stationery, newspaper and all other incidental expenses and perquisites; but no change shall be made in the compensation of members of the General Assembly during the term for which they may have been elected. The pay and mileage allowed to each member of the General Assembly shall be certified by the speakers of their respective houses, and entered on the journals, and published at the close of each session.

[See Sections 52, 84, 201. The obsolete matter at the beginning of the section has been omitted. See p. 99.]

SPECIAL LEGISLATION PROHIBITED.

§ 22. The General Assembly shall not pass local or special laws in any of the following enumerated cases, that is to say, for—

Granting divorces;

Changing the names of persons or places;

Laying out, opening, altering and working roads or highways;

Vacating roads, town plats, streets, alleys and public grounds;

Locating or changing county seats;

Regulating county and township affairs;

Regulating the practice in courts of justice;

Regulating the jurisdiction and duties of justices of the peace, police magistrates and constables;

Providing for changes of venue in civil and criminal cases;

Incorporating cities, towns or villages, or changing or amending the charter of any town, city or village;

Providing for the election of members of the board of supervisors in townships, incorporated towns or cities;

Summoning or impaneling grand or petit juries;

Providing for the management of common schools;

Regulating the rate of interest on money;

The opening and conducting of any election, or designating the place of voting;

The sale or mortgage of real estate belonging to minors or others under disability;

Protection of game or fish;
Chartering or licensing ferries or toll bridges;
Remitting fines, penalties or forfeitures;
Creating, increasing or decreasing fees, percentages or allowances of public officers, during the term for which said officers are elected or appointed;
Changing the law of descent;
Granting to any corporation, association, or individual, the right to lay down railroad tracks, or amending existing charters for such purpose;
Granting to any corporation, association or individual any special or exclusive privilege, immunity or franchise whatever;
In all other cases where a general law can be made applicable, no special law shall be enacted;

[See Sections 44, 45, 201; also p. 100.]

§ 23. The General Assembly shall have no power to release or extinguish, in whole or in part, the indebtedness, liability or obligation of any corporation or individual to this State or to any municipal corporation therein.

[See Sections 47 and 205.]

IMPEACHMENT.

§ 24. The House of Representatives shall have the sole power of impeachment; but a majority of all the members elected must concur therein. All impeachments shall be tried by the Senate; and when sitting for that purpose, the senators shall be upon oath or affirmation to do justice according to law and evidence. When the Governor of the State is tried, the Chief Justice shall preside. No person shall be convicted without the concurrence of two-thirds of the senators elected. But judgment, in such cases, shall not extend further than removal from office, and disqualification to hold any office of honor, profit or trust under the government of this State. The party, whether convicted or acquitted, shall, nevertheless be liable to prosecution, trial, judgment and punishment according to law.

[See Section 51.]

MISCELLANEOUS.

§ 25. The General Assembly shall provide, by law, that the fuel, stationery and printing paper furnished for the use of the State the copying, printing, binding and distributing the laws and journals, and all other printing ordered by the General Assembly, shall be let by contract to the lowest responsible bidder; but the General Assembly shall fix a maximum price and no member thereof, or other officer of the State, shall be interested, directly or indirectly, in such contract. But all such contracts shall be subject to the approval of the Governor, and if he disapproves the same, there shall be a reletting of the contract, in such manner as shall be prescribed by law.

[Omitted. See p. 100; also Section 204.]

§ 26. The State of Illinois shall never be made defendant in any court of law or equity.

[Omitted. See p. 100.]

§ 27. The General Assembly shall have no power to authorize lotteries or gift enterprises, for any purpose, and shall pass laws to prohibit the sale of lottery or gift enterprise tickets in this state.

[See Section 46.]

§ 28. No law shall be passed which shall operate to extend the term of any public officer after his election or appointment.

[See Section 199.]

§ 29. It shall be the duty of the General Assembly to pass such laws as may be necessary for the protection of operative miners, by providing

for ventilation, when the same may be required, and the construction of escapement shafts, or such other appliances as may secure safety in all coal mines, and to provide for the enforcement of said laws by such penalties and punishment as may be deemed proper.

[See Section 58.]

§ 30. The General Assembly may provide for establishing and opening roads and cartways, connected with a public road, for private and public use.

[See Section 59.]

§ 31. The General Assembly may pass laws permitting the owners of lands to construct drains, ditches and levees for agricultural, sanitary or mining purposes, across the lands of others, and provide for the organization of drainage districts, and vest the corporate authorities thereof with power to construct and maintain levees, drains and ditches and to keep in repair all drains, ditches and levees heretofore constructed under the laws of this State, by special assessments upon the property benefited thereby.

[See Section 59.]

§ 32. The General Assembly shall pass liberal homestead and exemption laws.

[See Section 56.]

§ 33. The General Assembly shall not appropriate out of the State treasury, or expend on account of the new capitol grounds, and construction, completion and furnishing of the State house, a sum exceeding in the aggregate $3,500,000.00, inclusive of all appropriations heretofore made, without first submitting the proposition for an additional expenditure to the legal voters of the State at a general election; nor unless a majority of all the votes cast at such election shall be for the proposed additional expenditure.

[Omitted; obsolete. See p. 100.]

§ 34. The General Assembly shall have power, subject to the conditions and limitations hereinafter contained, to pass any law (local, special or general) providing a scheme or charter of local municipal government for the territory now or hereafter embraced within the limits of the city of Chicago. The law or laws so passed may provide for consolidating (in whole or in part) in the municipal government of the city of Chicago, the powers now vested in the city, board of education, township, park and other local governments and authorities having jurisdiction confined to or within said territory, or any part thereof, and for the assumption by the city of Chicago of the debts and liabilities (in whole or in part) of the governments or corporate authorities whose functions within its territory shall be vested in said city of Chicago, and may authorize said city, in the event of its becoming liable for the indebtedness of two or more of the existing municipal corporations lying wholly within said city of Chicago, to become indebted to an amount (including its existing indebtedness and the indebtedness of all municipal corporations lying wholly within the limits of said city, and said city's proportionate share of the indebtedness of said county and sanitary district, which share shall be determined in such manner as the General Assembly shall prescribe) in the aggregate not exceeding 5 per centum of the full value of the taxable property within its limits, as ascertained by the last assessment either for State or municipal purposes previous to the incurring of such indebtedenss (but no new bonded indebtedness, other than for refunding purposes, shall be incurred until the proposition therefor shall be consented to by a majority of the legal voters of said city voting on the question at any election, general, municipal or special); and may provide for the assessment of property and the levy and collection of taxes within said city for corporate purposes in accordance with the principles of equality and uniformity prescribed by this Constitution and may abolish all offices, the functions of which shall be otherwise provided for; and may provide for the annexation of territory to or disconnection of territory from said city of

Chicago by the consent of a majority of the legal voters (voting on the question at any election, general, municipal or special) of the said city and of a majority of the voters of such territory, voting on the question at any election, general, municipal or special; and in case the General Assembly shall create municipal courts in the city of Chicago it may abolish the offices of justices of the peace, police magistrates and constables in and for the territory within said city, and may limit the jurisdiction of justices of the peace in the territory of said county of Cook outside of said city to that territory, and in such case the jurisdiction and practice of said municipal courts shall be such as the General Assembly shall prescribe; and the General Assembly may pass all laws which it may deem requisite to effectually provide a complete system ol local municipal government in and for the city of Chicago.

No law based upon this amendment to the Constitution, affecting the municipal government of the city of Chicago, shall take effect until such law shall be consented to by a majority of the legal voters of said city voting on the question at any election, general, municipal or special; and no local or special law based upon this amendment affecting specially any part of the city of Chicago shall take effect until consented to by a majority of the legal voters of such part of said city voting on the question at any election, general, municipal or special. Nothing in this section contained shall be construed to repeal, amend or affect section four (4) of Article XI of the Constitution of this State.

[See Sections 105, 118, 182, 185, 187, 188, 189 and 191; also p. 100.]

Article V.

Executive Department.

§ 1. Officers—terms.
§ 2. State Treasurer.
§ 3. Time of electing State officers.
§ 4. Returns—tie—contested election.
§ 5. Eligibility for office.
§ 6. Governor—powers and duty.
§ 7. His message and statement.
§ 8. Convening the General Assembly.
§ 9. Proroguing the General Assembly.
§ 10. Nominations by the Governor.
§ 11. Vacancies may be filled.
§ 12. Removals by the Governor.
§ 13. Reprieves—commutations—pardons.
§ 14. Governor as Commander-in-Chief.
§ 15. Impeachment of officers.
§ 16. Veto power.
§ 17. Lieutenant Governor.
§ 18. President of the Senate.
§ 19. Vacancy in Governor's office.
§ 20. Vacancy in other State offices.
§ 21 Report of the State officers.
§ 22. Great Seal of Illinois.
§ 23. Fees and salaries.
§ 24. Definition of "office."
§ 25. Oath of civil officers.

§ 1. The executive department shall consist of a Governor, Lieutenant Governor, Secretary of State, Auditor of Public Accounts, Treasurer, Superintendent of Public Instruction and Attorney General, who shall each, with the exception of the Treasurer, hold his office for the term of four years from the second Monday of January next after his election and until his successor is elected and qualified. They shall, except the Lieutenant Governor, reside at the seat of government during their term of office, and keep the public records, books and papers there, and shall perform such duties as may be prescribed by law.

[See Sections 65, 68, 70, 72 and 198.]

§ 2. The Treasurer shall hold his office for the term of two years, and until his successor is elected and qualified; and shall be ineligible to said office for two years next after the end of the term for which he was elected. He may be required by the Governor to give reasonable additional security, and in default of so doing his office shall be deemed vacant.

[See Sections 67, 68 and 198.]

Election.

§ 3. An election for Governor, Lieutenant Governor, Secretary of State, Auditor of Public Accounts and Attorney General shall be held on the Tuesday next after the first Monday of November, in the year of our Lord one

thousand eight hundred and seventy-two, and every four years thereafter; for Superintendent of Public Instruction, on the Tuesday next after the first Monday of November in the year one thousand eight hundred and seventy, and every four years thereafter; and for Treasurer on the day last above mentioned, and every two years thereafter, at such places and in such manner as may be prescribed by law.

[See Section 68.]

§ 4. The returns of every election for the above named offices shall be sealed up and transmitted by the returning officers to the Secretary of State directed to the "Speaker of the House of Representatives," who shall, immediately after the organization of the House and before proceeding to other business, open and publish the same in the presence of a majority of each House of the General Assembly, who shall, for that purpose, assemble in the hall of the House of Representatives. The person having the highest number of votes for either of said offices shall be declared duly elected; but if two or more have an equal, and the highest number of votes, the General Assembly shall, by joint ballot, choose one of such persons for said office. Contested elections for all of said offices shall be determined by both houses of the General Assembly, by joint ballot, in such manner as may be prescribed by law.

[See Section 69.]

ELIGIBILITY.

§ 5. No person shall be eligible to the office of Governor or Lieutenant Governor who shall not have attained the age of 30 years, and been, for five years next preceding his election, a citizen of the United States and of this State. Neither the Governor, Lieutenant Governor, Auditor of Public Accounts, Secretary of State, Superintendent of Public Instruction, nor Attorney General shall be eligible to any other office during the period for which he shall have been elected.

[See Section 66.]

GOVERNOR.

§ 6. The supreme executive power shall be vested in the Governor, who shall take care that the laws be faithfully executed.

[See Section 73.]

§ 7. The Governor shall, at the commencement of each session and at the close of his term of office, give to the General Assembly information, by message, of the condition of the State, and shall recommend such measures as he shall deem expedient. He shall account to the General Assembly, and accompany his message with a statement of all moneys received and paid out by him from any funds subject to his order, with vouchers, and at the commencement of each regular session, present estimates of the amount of money required to be raised by taxation for all purposes.

[See Section 74; also p. 101.]

§ 8. The Governor may, on extraordinary occasions, convene the General Assembly, by proclamation, stating therein the purpose for which they are convened, and the General Assembly shall enter upon no business except that for which they were called together.

[See Section 28.]

§ 9. In case of a disagreement between the two houses with respect to the time of adjournment, the Governor may, on the same being certified to him by the house first moving the adjournment, adjourn the General Assembly to such time as he thinks proper, not beyond the first day of the next regular session.

[See Section 32.]

§ 10. The Governor shall nominate, and by and with the advice and consent of the Senate (a majority of all the Senators elected concurring by

yeas and nays), appoint all officers whose offices are established by this Constitution, or which may be created by law, and whose appointment or election is not otherwise provided for; and no such officer shall be appointed or elected by the General Assembly.

[See Sections 48 and 75.]

§ 11. In case of a vacancy, during the recess of the Senate, in any office which is not elective, the Governor shall make a temporary appointment until the next meeting of the Senate, when he shall nominate some persons to fill such office; and any person so nominated who is confirmed by the Senate (a majority of all the Senators elected concurring by yeas and nays), shall hold his office during the remainder of the term, and until his successor shall be appointed and qualified. No person, after being rejected by the Senate, shall be again nominated for the same office at the same session, unless at the request of the Senate, or be appointed to the same office during the recess of the General Assembly.

[See Section 75.]

§ 12. The Governor shall have the power to remove any officer whom he may appoint, in case of incompetency, neglect of duty or malfeasance in office; and he may declare his office vacant and fill the same as is herein provided in other cases of vacancy.

[See Section 76; also p. 101.]

§ 13. The Governor shall have power to grant reprieves, commutations and pardons, after conviction, for all offenses, subject to such regulations as may be provided by law relative to the manner of applying therefor.

[See Section 77.]

§ 14. The Governor shall be commander-in-chief of the military and naval forces of the State (except when they shall be called into the service of the United States), and may call out the same to execute laws, suppress insurrection and repel invasion.

[See Section 78; also p. 101.]

§ 15. The Governor and all civil officers of the State shall be liable to impeachment for any misdemeanor in office.

[See Section 51.]

VETO.

§ 16. Every bill passed by the General Assembly shall, before it becomes a law, be presented to the Governor. If he approves, he shall sign it, and thereupon it shall become a law; but if he do not approve, he shall return it, with his objections, to the house in which it shall have originated, which house shall enter the objections at large upon its journal and proceed to reconsider the bill. If then two-thirds of the members elected agree to pass the same, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered; and if approved by two-thirds of the members elected to that house, it shall become a law, notwithstanding the objections of the Governor; but in all such cases the vote of each house shall be determined by yeas and nays, to be entered upon the journal. Bills making appropriations of money out of the treasury shall specify the objects and purposes for which the same are made, and appropriate to them respectively their several amounts in distinct items and sections. And if the Governor shall not approve any one or more of the items or sections contained in any bill, but shall approve the residue thereof, it shall become a law, as to the residue, in like manner as if he signed it. The Governor shall then return the bill, with his objections to the items or sections of the same not approved by him, to the house in which the bill shall have originated, which house shall enter the objections at large upon its journal, and proceed to reconsider so much of said bill as is not approved by the Governor. The same proceedings shall be had in both houses in

reconsidering the same as is hereinbefore provided in case of an entire bill returned by the Governor with his objections; and if any item or section of said bill not approved by the Governor shall be passed by two-thirds of the members elected to each of the two houses of the General Assembly, it shall become part of said law, notwithstanding the objections of the Governor. Any bill which shall not be returned by the Governor within ten days (Sundays excepted) after it shall have been presented to him shall become a law in like manner as if he had signed it, unless the General Assembly shall by their adjournment prevent its return, in which case it shall be filed with his objections in the office of the Secretary of State, within ten days after such adjournment, or become a law.

[See Sections 38 and 42.]

LIEUTENANT GOVERNOR.

§ 17. In case of the death, conviction on impeachment, failure to qualify, resignation, absence from the State, or other disability of the Governor, the powers, duties and emoluments of the office for the residue of the term, or until the disability shall be removed, shall devolve upon the Lieutenant Governor.

[See Section 79.]

§ 18. The Lieutenant Governor shall be President of the Senate, and shall vote only when the Senate is equally divided. The Senate shall choose a president, *pro tempore*, to preside in case of the absence or impeachment of the Lieutenant Governor, or when he shall hold the office of Governor.

[See Section 27.]

§ 19. If there be no Lieutenant Governor, or if the Lieutenant Governor shall, for any of the causes specified in section seventeen of this article, become incapable of performing the duties of the office, the President of the Senate shall act as Governor until the vacancy is filled or the disability removed; and if the President of the Senate, for any of the above named causes, shall become incapable of performing the duties of Governor, the same shall devolve upon the Speaker of the House of Representatives.

[See Section 79.]

OTHER STATE OFFICERS.

§ 20. If the office of Auditor of Public Accounts, Treasurer, Secretary of State, Attorney General, or Superintendent of Public Instruction shall be vacated by death, resignation or otherwise, it shall be the duty of the Governor to fill the same by appointment, and the appointee shall hold his office until his successor shall be elected and qualified in such a manner as provided by law. An account shall be kept by the officers of the executive department, and of all the public institutions of the State, of all moneys received or disbursed by them, severally, from all sources, and for every service performed, and a semi-annual report thereof be made to the Governor, under oath; and any officer who makes a false report shall be guilty of perjury, and punished accordingly.

[See Sections 80 and 81.]

§ 21. The officers of the executive department, and all the public institutions of the State, shall, at least ten days preceding each regular session of the General Assembly, severally report to the Governor, who shall transmit such reports to the General Assembly together with the reports of the judge of the Supreme Court of defects in the Constitution and laws; and the Governor may at any time require information, in writing, under oath, from the officers of the executive department, and all officers and managers of State institutions, upon any subject relating to the condition, management and expenses of their respective offices.

[See Section 81; also p. 101.]

THE SEAL OF STATE.

§ 22. There shall be a seal of the State, which shall be called the "Great Seal of the State of Illinois," which shall be kept by the Secretary of State, and used by him, officially, as directed by law.

[See Section 83.]

FEES AND SALARIES.

§ 23. The officers named in this article shall receive for their services a salary, to be established by law, which shall not be increased or diminished during their official terms, and they shall not, after the expiration of the terms of those in office at the adoption of this Constitution, receive to their own use any fees, costs, perquisites of office, or other compensation. And all fees that may hereafter be payable by law for any services performed by any officer provided for in this article of the Constitution, shall be paid in advance into the State treasury.

[See Sections 71, 152, 200, 201 and 203.]

DEFINITIONS AND OATH OF OFFICE.

§ 24. An office is a public position created by the Constitution or law, continuing during the pleasure of the appointing power, or for a fixed time with a successor elected or appointed. An employment is an agency, for a temporary purpose, which ceases when that purpose is accomplished.

[See Section 194.]

§ 25. All civil officers, except members of the General Assembly and such inferior officers as may be by law exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States and the Constitution of the State of Illinois, and that I will faithfully discharge the duties of the office of .....according to the best of my ability."

And no other oath, declaration or test shall be required as a qualification.

[See Section 197.]

ARTICLE VI.

JUDICIAL DEPARTMENT.

§ 1. Courts established.
§ 2. Supreme Court—jurisdiction.
§ 3. Qualifications of a Supreme judge.
§ 4. Terms of the Supreme Court.
§ 5. Grand divisions—districts.
§ 6. Election of Supreme judges.
§ 7. Salaries of the Supreme judges.
§ 8. Appeals and writs of error.
§ 9. Reporter.
§ 10. Clerks of the Supreme Court.
§ 11. Appellate Courts authorized.
§ 12. Circuit Courts—jurisdiction.
§ 13. Judicial circuits.
§ 14. Time of holding circuit courts.
§ 15. Judges—increase.
§ 16. Salaries of the circuit judges.
§ 17. Qualifications of judges and county commissioners.
§ 18. County judges—county clerks.
§ 19. Appeals from county courts.
§ 20. Probate courts authorized.
§ 21. Justices of the peace and constables.
§ 22. State's Attorney in each county.
§ 23. Cook County courts of record.
§ 24. Chief Justice—power of judges.
§ 25. Salaries of the judges.
§ 26. Criminal Court of Cook County.
§ 27. Clerks of Cook County Court.
§ 28. Justices of Chicago.
§ 29. Uniformity in the courts.
§ 30. Removal of any judge.
§ 31. Judges to make written reports.
§ 32. Terms of office—filling vacancies.
§ 33. Process — prosecutions — population.

§ 1. The judicial powers, except as in this article is otherwise provided, shall be vested in one Supreme Court, circuit courts, county courts, justices of the peace, police magistrates, and in such courts as may be created by law in and for cities and incorporated towns.

[See Sections 86 and 105; also p. 101.]

SUPREME COURT.

§ 2. The Supreme Court shall consist of seven judges, and shall have original jurisdiction in cases relating to the revenue, in *mandamus* and *habeas corpus*, and appellate jurisdiction in all other cases. One of said judges shall be Chief Justice; four shall constitute a quorum, and the concurrence of four shall be necessary to every decision.

[See Sections 87, 91, 92 and 100.]

§ 3. No person shall be eligible to the office of judge of the Supreme Court unless he shall be at least thirty years of age, and a citizen of the United States, nor unless he shall have resided in this State five years next preceding his election, and be a resident of the district in which he shall be elected.

[See Sections 124, 126 and 195.]

§ 4. Terms of the Supreme Court shall continue to be held in the present grand divisions at the several places now provided for holding the same; and until otherwise provided by law, one or more terms of said court shall be held, for the Northern division, in the city of Chicago each year, at such times as said court may appoint, whenever said city or the county of Cook shall provide appropriate rooms therefor, and the use of a suitable library, without expense to the State. The judicial divisions may be altered, increased or diminished in number, and the times and places of holding said court may be changed by law.

[Omitted. See p. 101; also Section 91.]

§ 5. The present grand divisions shall be preserved, and be denominated Southern, Central and Northern, until otherwise provided by law. The State shall be divided into seven districts for the election of judges, and, until otherwise provided by law they shall be as follows:

First District—The counties of St. Clair, Clinton, Washington, Jefferson, Wayne, Edwards, Wabash, White, Hamilton, Franklin, Perry, Randolph, Monroe, Jackson, Williamson, Saline, Gallatin, Hardin, Pope, Union, Alexander, Pulaski and Massac.

Second District—The counties of Madison, Bond, Marion, Clay, Richland, Lawrence, Crawford, Jasper, Effingham, Fayette, Montgomery, Macoupin, Shelby, Cumberland, Clark, Green, Jersey, Calhoun and Christian.

Third District—The counties of Sangamon, Macon, Logan, DeWitt, Piatt, Douglas, Champaign, Vermilion, McLean, Livingston, Ford, Iroquois, Coles, Edgar, Moultrie and Tazewell.

Fourth District—The counties of Fulton, McDonough, Hancock, Schuyler, Brown, Adams, Pike, Mason, Menard, Morgan, Cass and Scott.

Fifth District—The counties of Knox, Warren, Henderson, Mercer, Henry, Stark, Peoria, Marshall, Putnam, Bureau, LaSalle, Grundy and Woodford.

Sixth District—The counties of Whiteside, Carroll, JoDaviess, Stephenson, Winnebago, Boone, McHenry, Kane, Kendall, DeKalb, Lee, Ogle, and Rock Island.

Seventh District—The counties of Lake, Cook, Will, Kankakee and DuPage.

The boundaries of the districts may be changed at the session of the General Assembly next preceding the election of judges therein, and at no other time; but whenever such alterations shall be made the same shall be upon the rule of equality of population, as nearly as county boundaries will allow, and the districts shall be composed of contiguous counties, in as nearly compact form as circumstances will permit. The alteration of the districts shall not affect the tenure of office of any judge.

[See Sections 88, 91, 129; also p. 101.]

§ 6. At the time of voting on the adoption of this Constitution, one judge of the Supreme Court shall be elected by the electors thereof, in each of said districts numbered two, three, six and seven, who shall hold his office for the term of nine years from the first Monday of June, in the year

of our Lord one thousand eight hundred and seventy. The term of office of judges of the Supreme Court, elected after the adoption of this Constitution, shall be nine years, and on the first Monday of June of the year in which the term of any of the judges in office at the adoption of this Constitution, or of the judges then elected, shall expire, and every nine years thereafter, there shall be an election for the successor or successors of such judges in the respective districts wherein the term of such judges shall expire. The Chief Justice shall continue to act as such until the expiration of the term for which he was elected, after which the judges shall choose one of their number Chief Justice.

[See Sections 87, 88 and 89; also Schedule, Sec. 8.]

§ 7. From and after the adoption of this Constitution, the judges of the Supreme Court shall each receive a salary of four thousand dollars per annum, payable quarterly, until otherwise provided by law. And after said salaries shall be fixed by law, the salaries of the judges in office shall not be increased or diminished during the terms for which said judges shall have been elected.

[See Sections 127, 201.]

§ 8. Appeals and writs of error may be taken to the Supreme Court held in the grand division in which the case is decided, or by consent of the parties, to any other grand division.

[Omitted; obsolete. See p. 101; also Section 91.]

§ 9. The Supreme Court shall appoint one reporter of its decisions, who shall hold his office for six years, subject to removal by the court.

[See Section 94.]

§ 10. At the time of the election of Representatives in the General Assembly, happening next preceding the expiration of the terms of office of the present clerks of said court, one clerk of said court for each division shall be elected, whose term of office shall be six years from said election, but who shall not enter upon the duties of his office until the expiration of the term of his predecessor, and every six years thereafter one clerk of said court for each division shall be elected.

[Omitted. See p. 102; also Section 94.]

APPELLATE COURTS.

§ 11. After the year of our Lord one thousand eight hundred and seventy-four, inferior appellate courts, of uniform organization and jurisdiction, may be created in districts formed for that purpose, to which such appeals and writs of error as the General Assembly may provide, may be prosecuted from circuit and other courts, and from which appeals and writs of error shall lie to the Supreme Court, in all criminal cases, and cases in which a franchise, or freehold, or the validity of a statute is involved, and in such other cases as may be provided by law. Such appellate courts shall be held by such number of judges of the circuit courts, and at such times and places, and in such manner as may be provided by law; but no judge shall sit in review upon cases decided by him; nor shall said judges receive any additional compensation for such services.

[See Sections 95, 97, 98 and 100; also p. 102.]

CIRCUIT COURTS.

§ 12. The circuit courts shall have original jurisdiction of all causes in law and equity, and such appellate jurisdiction as is or may be provided by law, and shall hold two or more terms each year in every county. The terms of office of judges of circuit courts shall be six years.

[See Sections 102, 103 and 104.]

§ 13. The State, exclusive of the county of Cook and other counties having a population of 100,000, shall be divided into judicial circuits, prior to the expiration of the terms of office of the present judges of the circuit courts. Such circuits shall be formed of contiguous counties, in as nearly compact form and as nearly equal as circumstances will permit, having due regard to business, territory and population, and shall not exceed in number one circuit for every 100,000 of population of the State. One judge shall be elected for each of said circuits by the electors thereof. New circuits may be formed and the boundaries of circuits changed by the General Assembly, at its session next preceding the election for circuit judges, but at no other time: *Provided*, that the circuits may be equalized or changed at the first session of the General Assembly after the adoption of this Constitution. The creation, alteration or change of any circuit shall not affect the tenure of office of any judge. Whenever the business of the circuit court of any one, or of two or more contiguous counties, containing a population exceeding 50,000, shall occupy nine months of the year, the General Assembly may make of such county, or counties, a separate circuit. Whenever additional circuits are created, the foregoing limitations shall be observed.

[See Section 101.]

§ 14. The General Assembly shall provide for the times of holding court in each county; which shall not be changed, except by the General Assembly next preceding the general election for judges of said courts; but additional terms may be provided for in any county. The election for judges of the circuit courts shall be held on the first Monday in June in the year of our Lord one thousand eight hundred and seventy-three, and every six years thereafter.

[See Sections 102 and 104.]

§ 15. The General Assembly may divide the State into judicial circuits of greater population and territory, in lieu of the circuits provided for in section 13 of this article, and provide for the election therein, severally, by the electors thereof, by general ticket, of not exceeding four judges, who shall hold the circuit courts in the circuit for which they shall be elected, in such manner as may be provided by law.

[See Sections 101 and 102.]

§ 16. From and after the adoption of this Constitution, judges of the circuit courts shall receive a salary of $3,000.00 per annum, payable quarterly until otherwise provided by law, and after their salaries shall be fixed by law they shall not be increased or diminished during the terms for which said judges shall be, respectively, elected; and from and after the adoption of this Constitution, no judge of the Supreme or circuit court shall receive any other compensation, perquisite or benefit, in any form whatsoever, nor perform any other than judicial duties to which may belong any emoluments.

[See Sections 127, 128 and 201.]

§ 17. No person shall be eligible to the office of judge of the circuit or any inferior court, or to membership in the "board of county commissioners," unless he shall be at least twenty-five years of age and a citizen of the United States, nor unless he shall have resided in this State five years next preceding his election, and be a resident of the circuit, county, city, cities or incorporated town in which he shall be elected.

[See Sections 124 and 126; also p. 102.]

COUNTY COURTS.

§ 18. There shall be elected in and for each county one county judge and one clerk of the county court, whose term of office shall be four years. But the General Assembly may create districts of two or more contiguous counties, in each of which shall be elected one judge, who shall take the place of and exercise the powers and jurisdiction of county judges in such

districts. County courts shall be courts of record, and shall have original jurisdiction in all matters of probate, settlement of estates of deceased persons, appointment of guardians and conservators and settlement of their accounts, in all matters relating to apprentices, and in proceedings for the collection of taxes and assessments, and such other jurisdiction as may be provided for by general law.

[See Sections 105, 113, 114 and 170; also p. 102.]

§ 19. Appeals and writs of error shall be allowed from final determinations of county courts, as may be provided by law.

[See Section 100.]

PROBATE COURTS.

§ 20. The General Assembly may provide for the establishment of a probate court in each county having a population of over 50,000, and for the election of a judge thereof, whose term of office shall be the same as that of the county judge, and who shall be elected at the same time and in the same manner. Said courts, when established, shall have original jurisdiction of all probate matters, the settlement of estates of deceased persons, the appointment of guardians and conservators, and settlement of their accounts; in all matters relating to apprentices, and in cases of sales of real estate of deceased persons for the payment of debts.

[Omitted. See p. 102; also Sections 105, 113 and 114.]

JUSTICES OF THE PEACE AND CONSTABLES.

§ 21. Justices of the peace, police magistrates and constables shall be elected in and for such districts as are, or may be provided by law, and the jurisdiction of such justices of the peace and police magistrates shall be uniform.

[See Sections 116, 117.]

STATE'S ATTORNEYS.

§22. At the election for members of the General Assembly in the year of our Lord one thousand eight hundred and seventy-two, and every four years thereafter, there shall be elected a State's attorney in and for each county, in lieu of the State's attorneys now provided by law, whose term of office shall be four years.

[See Section 119.]

COURTS OF COOK COUNTY.

§ 23. The county of Cook shall be one judicial circuit. The circuit court of Cook County shall consist of five judges, until their number shall be increased as herein provided. The present judge of the recorder's court of the city of Chicago, and the present judge of the circuit court of Cook county, shall be two of said judges, and shall remain in office for the terms for which they were respectively elected, and until their successors shall be elected and qualified. The superior court of Chicago shall be continued, and called the "Superior Court of Cook County." The General Assembly may increase the number of said judges, by adding one to either of said courts for every additional fifty thousand inhabitants in said county over and above a population of four hundred thousand. The terms of office of the judges of said courts, hereafter elected, shall be six years.

[See Sections 105, 106 and 107; also p. 102.]

§ 24. The judge having the shortest unexpired term shall be Chief Justice of the court of which he is a judge. In case there are two or more whose terms expire at the same time, it may be determined by lot which shall be Chief Justice. Any judge of either of said courts shall have all the powers of a circuit judge, and may hold the court of which he is a member. Each of them may hold a different branch thereof at the same time.

[See Section 109; also p. 102.]

§ 25. The judges of the superior and circuit courts, and the State's attorney, in said county, shall receive the same salaries, payable out of the State treasury, as is or may be paid from said treasury to the circuit judges and State's attorneys of the State, and such further compensation, to be paid by the county of Cook, as is or may be provided by law. Such compensation shall not be changed during their continuance in office.

[See Sections 127 and 201; also p. 102.]

§ 26. The recorder's court of the city of Chicago shall be continued, and shall be called the "Criminal Court of Cook County." It shall have the jurisdiction of a circuit court in all cases of criminal and *quasi* criminal nature, arising in the county of Cook, or that may be brought before said court pursuant to law; and all recognizances and appeals taken in said county, in criminal and *quasi* criminal cases shall be returnable and taken to said court. It shall have no jurisdiction in civil cases, except in those on behalf of the people, and incident to such criminal or *quasi* criminal matters, and to dispose of unfinished business. The terms of said criminal court of Cook county shall be held by one or more of the judges of the circuit or superior court of Cook county, as nearly as may be in alteration, as may be determined by said judges, or provided by law. Said judges shall be *ex-officio* judges of said court.

[Omitted. See Sections 105 and 109; also p. 102.]

§ 27. The present clerk of the recorder's office of the city of Chicago shall be the clerk of the criminal court of Cook county during the term for which he was elected. The present clerks of the superior court of Chicago, and the present clerk of the circuit court of Cook county, shall continue in office during the terms for which they were respectively elected; and thereafter there shall be but one clerk of the superior court, to be elected by the qualified electors of said county, who shall hold his office for the term of four years, and until his successor is elected and qualified.

[See Section 160 and Schedule, Sec. 21; also p. 102.]

§ 28. All justices of the peace in the city of Chicago shall be appointed by the Governor, by and with the advice and consent of the Senate (but only upon the recommendation of a majority of the judges of the circuit, superior and county court), and for such districts as are now or shall hereafter be provided by law. They shall hold their office for four years, and until their successors have been commissioned and qualified, but they may be removed by summary proceedings in the circuit or superior court, for extortion or other malfeasance. Existing justices of the peace and police magistrates may hold their offices until the expiration of their respective terms.

[Omitted; obsolete. See p. 102.]

GENERAL PROVISIONS.

§ 29. All judicial officers shall be commissioned by the Governor. All laws relating to courts shall be general and of uniform operation, and the organization, jurisdiction, powers, proceedings and practice of all courts of the same class or grade, so far as regulated by law, and the force and effect of the process, judgments and decrees of such courts, severally, shall be uniform.

[See Sections 120 and 125.]

§30. The General Assembly may, for cause entered on the journals upon due notice and opportunity of defense, remove from office any judge, upon concurrence of three-fourths of all the members elected, of each house. All other officers in this article mentioned shall be removed from office on prosecution and final conviction for misdemeanor in office.

[See Section 121.]

§ 31. All judges of courts of record, inferior to the Supreme Court, shall, on or before the first day of June of each year, report in writing to

the judges of the Supreme Court such defects and omissions in the laws as their experience may suggest; and the judges of the Supreme Court shall, on or before the first day of January of each year, report in writing to the Governor such defects and omissions in the Constitution and laws as they may find to exist, together with appropriate forms of bills to cure such defects and omission in the laws. And the judges of the several circuit courts shall report to the next General Assembly the number of days they have held court in the several counties composing their respective circuits, the preceding two years.

[Omitted. See p. 103.]

§ 32. All officers provided for in this article shall hold their offices until their successors shall be qualified, and they shall respectively, reside in the division, circuit, county or district for which they may be elected or appointed. The terms of office of all such officers, where not otherwise prescribed in this article, shall be four years. All officers, where not otherwise provided for in this article, shall perform such duties and receive such compensation as is or may be provided by law. Vacancies in such elective offices shall be filled by election; but where the unexpired term does not exceed one year the vacancy shall be filled by appointment, as follows: Of judges, by the Governor; of clerks of courts, by the court to which the office appertains, or by the judge or judges thereof; and of all such other offices, by the board of supervisors, or board of county commissioners, in the county where the vacancy occurs.

[See Sections 116, 117, 125, 126, 131 and 198; also p. 103.]

§ 33. All process shall run: *In the name of the People of the State of Illinois*; and all prosecutions shall be carried on: *In the name and by the authority of the People of the State of Illinois;* and conclude: *Against the peace and dignity of the same.* "Population," whenever used in this article, shall be determined by the next preceding census of this State or of the United States.

[See Section 123; also p. 103.]

ARTICLE VII.

SUFFRAGE.

1. Qualification of voters.
2. All voting to be by ballot.
3. Privileges of electors.
4. Voting residence.
§ 5. Soldiers of U. S. Army.
§ 6. Qualifications for office.
§ 7. Persons convicted of crime.

§ 1. Every person having resided in this State one year, in the county ninety days and in the election district thirty days next preceding any election therein; who was an elector in this State on the first day of April, in the year of our Lord, one thousand eight hundred and forty-eight, or obtained a certificate of naturalization, before any court of record in this State, prior to the first day of January, in the year of our Lord, one thousand eight hundred and seventy, or who shall be a male citizen of the United States, above the age of 21 years, shall be entitled to vote at such election.

[See Section 132; also p. 103.]

§ 2. All votes shall be by ballot.

[See Section 134.]

§3. Electors shall, in all cases except treason, felony or breach of the peace, be privileged from arrest during their attendance at elections and in going to and returning from the same. And no elector shall be required to do military duty on the days of election, except in time of war or public danger.

[See Section 135.]

§ 4. No elector shall be deemed to have lost his residence in this State by reason of his absence on business of the United States or of this State, or in the military or naval service of the United States.

[See Section 133.]

§ 5. No soldier, seaman or marine in the army or navy of the United States shall be deemed a resident of this State in consequence of being stationed therein.

[See Section 133.]

§ 6. No person shall be elected or appointed to any office in this State, civil or military, who is not a citizen of the United States, and who shall not have resided in this State one year next preceding the election or appointment.

[See Section 195.]

§ 7. The General Assembly shall pass laws excluding from the right of suffrage persons convicted of infamous crimes.

[See Section 132.]

Article VIII.

EDUCATION.

§ 1. Free schools.
§ 2. Gifts or grants in aid of schools.
§ 3. Aid to sectarian schools prohibited.
§ 4. Sale of text books—teachers and officers.
§ 5. County superintendent of schools.

§ 1. The General Assembly shall provide a thorough and efficient system of free schools whereby all children of this State may receive a good common school education.

[See Section 208.]

§ 2. All lands, moneys, or other property donated, granted or received for school, college, seminary or university purposes, and the proceeds thereof shall be faithfully applied to the objects for which such gifts or grants were made.

[See Section 210.]

§ 3. Neither the General Assembly nor any county, city, town, township, school district or other public corporation shall ever make any appropriation, or pay from any public fund whatever, anything in aid of any church or sectarian purpose, or to help support or sustain any school, academy, seminary, college, university or other literary or scientific institution, controlled by any church or sectarian denomination whatever; nor shall any grant or donation of land, money or other personal property ever be made by the State or any such public corporation to any church or for any sectarian purpose.

[See Section 159.]

§ 4. No teacher, State, county, township or district school officer shall be interested in the sale, proceeds or profits of any book, apparatus or furniture, used or to be used in any school in this State, with which such officer or teacher may be connected, under such penalties as may be provided by the General Assembly.

[See Sections 204 and 211.]

§ 5. There may be a county superintendent of schools in each county, whose qualifications, powers, duties, compensation and time and manner of election and term of office shall be prescribed by law.

[See Section 161.]

Article IX.

REVENUE.

§ 1. Taxation shall be uniform.
§ 2. Other and further taxation.
§ 3. Property exempt from taxation.
§ 4. Sale of real property for taxes.
§ 5. Right of redemption.
§ 6. Release from taxation forbidden.
§ 7. Taxes paid into State treasury.
§ 8. Limitation on county taxes.
§ 9. Local municipal improvements.
§ 10. Municipal taxation.
§ 11. Defaulting officers.
§ 12. Limitation of municipal indebtedness.
§ 13. World's Columbian Exposition.

§ 1. The General Assembly shall provide such revenue as may be needful by levying a tax, by valuation, so that every person and corporation shall pay a tax in proportion to the value of his, her or its property—such value to be ascertained by some person or persons to be elected or appointed in such manner as the General Assembly shall direct, and not otherwise; but the General Assembly shall have power to tax peddlers, auctioneers, brokers, hawkers, merchants, commission merchants, showmen, jugglers, inn-keepers, grocery-keepers, liquor dealers, toll-bridges, ferries, insurance, telegraph and express interests or business, venders of patents and persons or corporations owning or using franchises and privileges, in such manner as it shall from time to time direct by general law, uniform as to the class upon which it operates.

[See Sections 140 and 141.]

§ 2. The specification of the objects and subjects of taxation shall not deprive the General Assembly of the power to require other subjects or objects to be taxed, in such manner as may be consistent with the principles of taxation fixed in this Constitution.

[See Section 139.]

§ 3. The property of the State, counties, and other municipal corporations, both real and personal, and such other property as may be used exclusively for agricultural and horticultural societies, for school, religious, cemetery and charitable purposes, may be exempted from taxation; but such exemption shall be only by general law. In the assessment of real estate incumbered by public easement, any depreciation occasioned by such easement may be deducted in the valuation of such property.

[See Section 145; also p. 103.]

§ 4. The General Assembly shall provide, in all cases where it may be necessary to sell real estate for the non-payment of taxes or special assessments, for State, county, municipal or other purposes, that a return of such unpaid taxes or assessments shall be made to some general officer of the county having authority to receive State and county taxes; and there shall be no sale of said property for any of said taxes or assessments but by said officer, upon the order of judgment of some court of record.

[See Section 149.]

§ 5. The right of redemption from all sales of real estate for the non-payment of taxes or special assessments of any character whatever, shall exist in favor of owners and persons interested in such real estate for a period of not less than two years from such sales thereof. And the General Assembly shall provide, by law, for reasonable notice to be given to the owners or parties interested, by publication or otherwise, of the fact of the sale of the property for such taxes or assessments, and when the time of redemption shall expire: *Provided*, that occupants shall in all cases be served with personal notice before the time of redemption expires.

[See Section 149; also p. 103.]

§ 6. The General Assembly shall have no power to release or discharge any county, city, township, town or district whatever, or the inhabitants thereof, or the property therein, from their or its proportionate share of

taxes to be levied for State purposes, nor shall commutation for such taxes be authorized in any form whatsoever.

[See Section 139.]

§ 7. All taxes levied for State purposes shall be paid into the State treasury.

[See Section 151.]

§ 8. County authorities shall never assess taxes the aggregate of which shall exceed seventy-five cents per one hundred dollars valuation except for the payment of indebtedness existing at the adoption of this Constitution, unless authorized by a vote of the people of the county.

[See Section 173 and 177; also p. 103.]

§ 9. The General Assembly may vest the corporate authorities of cities, towns and villages with power to make local improvements by special assessment or by special taxation of contiguous property or otherwise. For all other corporate purposes, all municipal corporations may be vested with authority to assess and collect taxes; but such taxes shall be uniform in respect to persons and property within the jurisdiction of the body imposing the same.

[See Sections 148, 150 and 178.]

§ 10. The General Assembly shall not impose taxes upon municipal corporations, or the inhabitants or property thereof, for corporate purposes, but shall require that all the taxable property within the limits of municipal corporations shall be taxed for the payment of debts contracted under authority of law, such taxes to be uniform in respect to persons and property within the jurisdiction of the body imposing the same. Private property shall not be liable to be taken or sold for the payment of the corporate debts of a municipal corporation.

[See Section 150.]

§ 11. No person who is in default, as collector or custodian of money or property belonging to a municipal corporation, shall be eligible to any office in or under such corporation. The fees, salary or compensation of no municipal officer who is elected or appointed for a definite term of office shall be increased or diminished during such term.

[See Sections 196 and 201.]

§ 12. No county, city, township, school district or other municipal corporation shall be allowed to become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding five per centum on the value of the taxable property therein, to be ascertained by the last assessment for State and county taxes previous to the incurring of such indebtedness. Any county, city, school district or other municipal corporation incurring any indebtedness as aforesaid, shall before or at the time of doing so, provide for the collection of a direct annual tax sufficient to pay the interest of such debt as it falls due, and also to pay and discharge the principal thereof within twenty years from the time of contracting the same. This section shall not be construed to prevent any county, city, township, school district or other municipal corporation, from issuing their bonds in compliance with any vote of the people which may have been had prior to the adoption of this Constitution in pursuance of any law providing therefor.

[See Sections 156 and 190; also p. 103.]

§ 13. The corporate authorities of the city of Chicago are hereby authorized to issue interest bearing bonds of said city to an amount not exceeding five million dollars, at a rate of interest not to exceed five per centum per annum, the principal payable within thirty years from the date of their issue, and the proceeds thereof shall be paid to the treasurer of the

World's Columbian Exposition, and used and disbursed by him under the direction and control of the directors, in aid of the World's Columbian Exposition, to be held in the city of Chicago, in pursuance of an Act of Congress of the United States.

Provided, that if at an election for the adoption of this amendment to the constitution a majority of the votes cast within the limits of the city of Chicago shall be against its adoption, then no bonds shall be issued under this amendment.

And said corporate authorities shall be repaid as large a proportionate amount of the aid given by them as is repaid to the stockholders on the sums subscribed and paid by them, and the money so received shall be used in the redemption of the bonds issued as aforesaid, provided that said authorities may take in whole or in part of the sum coming to them any permanent improvements placed on land held or controlled by them.

And, provided, further, that no such indebtedness so created shall in any part thereof be paid by the State, or from any State revenue, tax or fund, but the same shall be paid by the said city of Chicago alone.

[Omitted; obsolete.]

Article X.

COUNTIES.

§ 1. New counties.
§ 2. Division of any county.
§ 3. Attaching or detaching territory.
§ 4. Removal of county seat.
§ 5. County government.
§ 6. Boards of county commissioners.
§ 7. County affairs in Cook County.
§ 8. County officers—terms of office.
§ 9. Salaries and fees in Cook County.
§ 10. Salaries fixed by county board.
§ 11. Township officers' fees.
§ 12. Officers' fees.
§ 13. Sworn report of fees.

§ 1. No new county shall be formed or established by the General Assembly which will reduce the county or counties, or either of them, from which it shall be taken to less contents than four hundred square miles; nor shall any county be formed of less contents; nor shall any line thereof pass within less than ten miles of any county seat of the county or counties proposed to be divided.

[See Section 172.]

§ 2. No county shall be divided, or have any part stricken therefrom without submitting the question to a vote of the people of the county, nor unless a majority of all the legal voters of the county voting on the question shall vote for the same.

[See Section 168.]

§ 3. There shall be no territory stricken from any county unless a majority of the voters living in such territory shall petition for such division; and no territory shall be added to any county without the consent of the majority of the voters of the county to which it is proposed to be added. But the portion so stricken off and added to another county, or formed in whole or in part into a new county, shall be holden for and obliged to pay its proportion of the indebtedness of the county from which it has been taken.

[See Section 168.]

COUNTY SEATS.

§ 4. No county seat shall be removed until the point to which it is proposed to remove shall be fixed in pursuance of law, and three-fifths of the voters of the county, to be ascertained in such manner as shall be provided by general law, shall have voted in favor of its removal to such point; and no person shall vote on such question who has not resided in the county six months and in the election precinct ninety days next preceding such election. The question of the removal of a county seat shall not be oftener submitted than once in ten years to a vote of the people. But when an

attempt is made to remove a county seat to a point nearer to the center of the county, then a majority vote shall be necessary.

[See Section 169.]

COUNTY GOVERNMENT.

§ 5. The General Assembly shall provide, by general law, for township organization, under which any county may organize whenever a majority of the legal voters of such county, voting at any general election, shall so determine; and whenever any county shall adopt township organization, so much of this constitution as provides for the management of the fiscal concerns of the said county by the board of county commissioners, may be dispensed with, and the affairs of said county may be transacted in such manner as the General Assembly may provide. And in any county that shall have adopted a township organization, the question of continuing the same may be submitted to a vote of the electors of such county, at a general election, in the manner that now is or may be provided by law; and if a majority of all the votes cast upon that question shall be against township organization, then such organization shall cease in said county; and all laws in force in relation to counties not having township organization shall immediately take effect and be in force in such county. No two townships shall have the same name, and the day of holding the annual township meeting shall be uniform throughout the State.

[See Sections 163 and 167; also p. 104.]

§ 6. At the first election of county judges under this constitution, there shall be elected in each of the counties in this State not under township organization, three officers. who shall be styled, "The Board of County Commissioners," who shall hold sessions for the transaction of county business as shall be provided by law. One of said commissioners shall hold his office for one year, one for two years and one for three years, to be determined by lot; and every year thereafter one such officer shall be elected in each of said counties for the term of three years.

[See Sections 162 and 163.]

§ 7. The county affairs of Cook County shall be managed by a board of commissioners of fifteen persons, ten of whom shall be elected from the city of Chicago and five from towns outside of said city, in such manner as may be provided by law.

[See Sections 163 and 174.]

COUNTY OFFICERS AND THEIR COMPENSATION.

§ 8. In each county there shall be elected the following county officers, at the general election to be held on the Tuesday after the first Monday in November, A. D. 1882: A county judge, county clerk, sheriff and treasurer, and at the election to be held on the Tuesday after the first Monday in November, A. D. 1884, a coroner and clerk of the circuit court (who may be *ex-officio* recorder of deeds, except in counties having 60,000 and more inhabitants, in which counties a recorder of deeds shall be elected at the general election in 1884). Each of said officers shall enter upon the duties of his office, respectively, on the first Monday of December after his election, and they shall hold their respective offices for the term of four years, and until their successors are elected and qualified: *Provided*, that no person having once been elected to the office of sheriff or treasurer shall be eligible to re-election to said office for four years after the expiration of the term for which he shall have been elected.

[See Sections 160, 162, 164, 170 and 198; also p. 104.]

§ 9. The clerks of all courts of record, the treasurer, sheriff, coroner and recorder of deeds of Cook County, shall receive as their only compensation for their services, salaries to be fixed by law, which shall in no case be as much as the lawful compensation of a judge of the circuit court of said

county and shall be paid respectively only out of the fees of the office actually collected. All fees, perquisites and emoluments (above the amount of said salaries) shall be paid into the county treasury. The number of the deputies and assistants of such officers shall be determined by rule of the circuit court, to be entered of record, and their compensation shall be determined by the county board.

[See Sections 175, 200 and 203; also p. 104.]

§ 10. The county board, except as provided in section nine of this article, shall fix the compensation of all county officers, with the amount of their necessary clerk hire, stationery, fuel and other expenses, and in all cases where fees are provided for, said compensation shall be paid only out of, and shall in no instance exceed, the fees actually collected; they shall not allow either of them more per annum than fifteen hundred dollars. in counties not exceeding twenty thousand inhabitants; two thousand dollars in counties containing twenty thousand and not exceeding thirty thousand inhabitants; twenty-five hundred dollars in counties containing thirty thousand and not exceeding fifty thousand inhabitants; three thousand dollars in counties containing fifty thousand and not exceeding seventy thousand inhabitants; thirty-five hundred dollars in counties containing seventy thousand and not exceeding one hundred thousand inhabitants; and four thousand dollars in counties containing over one hundred thousand, and not exceeding two hundred and fifty thousand inhabitants; and not more than one thousand dollars additional compensation for each additional one hundred thousand inhabitants: *Provided*, that the compensation of no officer shall be increased or diminished during his term of office. All fees or allowances by them received, in excess of their said compensation, shall be paid into the county treasury.

[See Sections 171, 200, 201 and 203; also p. 104.]

§ 11. The fees of township officers, and of each class of county officers, shall be uniform in the class of counties to which they respectively belong. The compensation herein provided for shall apply only to officers hereafter elected, but all fees established by special laws shall cease at the adoption of this Constitution, and such officers shall receive only such fees as are provided by general law.

[See Section 165; also p. 104.]

§ 12. All laws fixing the fees of State, county and township officers shall terminate with the terms respectively of those who may be in office at the meeting of the first General Assembly after the adoption of this Constitution; and the General Assembly shall, by general law, uniform in its operation, provide for and regulate the fees of said officers and their successors, so as to reduce the same to a reasonable compensation for services actually rendered. But the General Assembly may, by general law, classify the counties by population into not more than three classes and regulate the fees according to class. This article shall not be construed as depriving the General Assembly of the power to reduce the fees of existing officers.

[See Section 165; also p. 104.]

§13. Every person who is elected or appointed to any office in this State, who shall be paid in whole or in part by fees, shall be required by law to make a semi-annual report, under oath, to some officer to be designated by law, of all his fees and emoluments.

[See Section 203.]

Article XI.

CORPORATIONS.

§ 1. Organization of corporations.
§ 2. Existing charters.
§ 3. Election of directors or managers.
§ 4. Construction of street railroads.
§ 5. State bank forbidden — general law.
§ 6. Liability of bank stockholder.
§ 7. Suspension of special payment.
§ 8. Of a general banking law.
§ 9. Railroad — transfer offices — reports.
§ 10. Personal property of railroads.
§ 11. Consolidations.
§ 12. Railroads deemed highways — rates fixed.
§ 13. Stocks, bonds and dividends.
§ 14. Power over existing companies.
§ 15. Freight and passenger tariffs regulated.

Section 1. No corporation shall be created by special laws, or its charter extended, changed or amended, except those for charitable, education, penal or reformatory purposes, which are to be and remain under the patronage and control of the State, but the General Assembly shall provide, by general laws, for the organization of all corporations hereafter to be created.

[See Section 44; also p. 105.]

§ 2. All existing charters or grants of special or exclusive privileges, under which organization shall not have taken place, or which shall not have been in operation within ten days from the time this constitution takes effect, shall thereafter have no validity or effect whatever.

[Omitted; obsolete.]

§ 3. The General Assembly shall provide, by law, that in all elections for directors or managers of incorporated companies, every stockholder shall have the right to vote, in person or by proxy, for the number of shares of stock owned by him, for as many persons as there are directors or managers to be elected, or to cumulate said shares, and give one candidate as many votes as the number of directors multiplied by the number of his shares of stock shall equal, or to distribute them on the same principle among as many candidates as he shall think fit and such directors or managers shall not be elected in any other manner.

[See Section 64; also p. 105.]

§ 4. No law shall be passed by the General Assembly granting the right to construct and operate a street railroad within any city, town or incorporated village, without requiring the consent of the local authorities having the control of the street or highway proposed to be occupied by such street railroad.

[See Section 61.]

BANKS.

§ 5. No State bank shall hereafter be created, nor shall the State own or be liable for any stock in any corporation or joint stock company or association for banking purposes now created, or to be hereafter created. No Act of the General Assembly authorizing or creating corporations or associations with banking powers, whether of issue, deposit or discount, nor amendments thereto, shall go into effect or in any manner be in force, unless the same shall be submitted to a vote of the people at the general election next succeeding the passage of the same, and be approved by a majority of all the votes cast at such election for or against such law.

[See Section 49 relative to first sentence. The last sentence has been omitted. See p. 105.]

§ 6. Every stockholder in a banking corporation or institution shall be individually responsible and liable to its creditors, over and above the amount of stock by him or her held, to an amount equal to his or her respective shares so held, for all its liabilities accruing while he or she remain such stockholders.

[See Section 64.]

§ 7. The suspension of specie payments by banking institutions, on their circulation, created by the laws of this State, shall never be permitted or sanctioned. Every banking association now, or which may hereafter be, organized under the laws of this State, shall make and publish a full and accurate quarterly statement of its affairs (which shall be certified to, under oath, by one or more of its officers) as may be provided by law.

[Omitted. See p. 105; also Section 49.]

§ 8. If a general banking law shall be enacted, it shall provide for the registry and countersigning, by an officer of State, of all bills or paper credit designed to circulate as money, and require security, to the full amount thereof, to be deposited with the State Treasurer, in United States or Illinois State stocks, to be rated at 10 per cent below their par value and in case of a depreciation of said stocks to the amount of ten per cent below par, the bank or banks owning said stocks shall be required to make up said deficiency by depositing additional stocks. And said law shall also provide for the recording of the names of all stockholders in such corporations, the amount of stocks held by each, the time of any transfer thereof, and to whom such transfer is made.

[Omitted. See p. 105; also Section 49.]

RAILROADS.

§ 9. Every railroad corporation organized or doing business in this State, under the laws or authority thereof, shall have and maintain a public office or place in this State, for the transaction of its business, where transfers of stock shall be made, and in which shall be kept for public inspection, books in which shall be recorded the amount of capital stock subscribed, and by whom, the names of the owners of its stock, and the amounts owned by them respectively; the amount of stock paid in, and by whom; the transfers of said stock, the amount of its assets and liabilities, and the names and place of residence of its officers. The directors of every railroad corporation shall annually make a report, under oath, to the Auditor of Public Accounts, or some officer to be designated by law, of all their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law. And the General Assembly shall pass laws enforcing by suitable penalties the provisions of this section.

[Omitted.. See p. 105.]

§ 10. The rolling stock, and all other movable property belonging to any railroad company or corporation in this State, shall be considered personal property, and shall be liable to execution and sale in the same manner as the personal property of individuals, and the General Assembly shall pass no law exempting any such property from execution and sale.

[See Section 227; also p. 105.]

§ 11. No railroad corporation shall consolidate its stock, property or franchises with any other railroad corporation owning a parallel or competing line; and in no case shall any consolidation take place except upon public notice given, of at least 60 days, to all stockholders, in such manner as may be provided by law. A majority of the directors of any railroad corporation, now incorporated or hereafter to be incorporated by the laws of this State, shall be citizens and residents of this State.

[Omitted. See p. 106.]

§ 12. Railways heretofore constructed or that may hereafter be constructed in this State, are hereby declared public highways, and shall be free to all persons for the transportation of their persons and property thereon, under such regulations as may be prescribed by law. And the General Assembly shall, from time to time, pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight on the different railroads in this State.

[See Section 223.]

§ 13. No railroad corporation shall issue any stock or bonds, except for money, labor or property actually received and applied to the purposes for which such corporation was created; and all stock dividends, and other fictitious increase of capital stock or indebtedness of any such corporations, shall be void. The capital stock of no railroad corporation shall be increased for any purpose, except upon giving sixty days public notice, in such manner as may be provided by law.

[Omitted. See p. 106.]

§ 14. The exercise of power and the right of eminent domain shall never be so construed or abridged as to prevent the taking, by the General Assembly, of the property and franchises of incorporated companies already organized, and subjecting them to the public necessity the same as of individuals. The right of trial by jury shall be held inviolate in all trials of claims for compensation, when, in the exercise of the said right of eminent domain, any incorporated company shall be interested either for or against the exercise of said right.

[Omitted. See p. 106; also Section 180.]

§ 15. The General Assembly shall pass laws to correct abuses and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this State, and enforce such laws by adequate penalties, to the extent, if necessary for that purpose, of forfeiture of their property and franchises.

[See Section 224.]

Article XII.

MILITIA.

§ 1. Persons liable to duty.
§ 2. Organization — equipment — discipline.
§ 3. Officers.
§ 4. Privileged from arrest.
§ 5. Records, etc., preservation.
§ 6. Exemption from duty.

§ 1. The militia of the State of Illinois shall consist of all able-bodied male persons, resident in the State, between the ages of 18 and 45, except such persons as now are or hereafter may be exempted by the laws of the United States or of this State.

[See Section 212.]

§ 2. The General Assembly, in providing for the organization, equipment and discipline of the militia, shall conform as nearly as practicable to the regulations for the government of the armies of the United States.

[Omitted. See p. 106.]

§ 3. All militia officers shall be commissioned by the Governor, and may hold their commissions for such time as the General Assembly may provide.

[See Section 213.]

§ 4. The militia shall, in all cases except treason, felony or breach of the peace, be privileged from arrest during their attendance at musters and elections, and in going to and returning from the same.

[See Section 214.]

§ 5. The military records, banners and relics of the State shall be preserved as an enduring memorial of the patriotism and valor of Illinois, and it shall be the duty of the General Assembly to provide by law for the safekeeping of the same.

[See Section 215; also p. 106.]

§ 6. No persons having conscientious scruples against bearing arms shall be compelled to do militia duty in the time of peace: *Provided*, such person shall pay an equivalent for such exemption.

[See Section 212.]

Article XIII.

WAREHOUSES.

§ 1. Public warehouses.
§ 2. Weekly statements required.
§ 3. Examination of property stored.
§ 4. Delivery of full weights.
§ 5. Delivery of grain by railroads.
§ 6. Warehouse receipts.
§ 7. Grain inspection.

§ 1. All elevators or storehouses where grain or other property is stored for a compensation, whether the property stored be kept separate or not, are declared to be public warehouses.

[See Section 216.]

§ 2. The owner, lessee or manager of each and every public warehouse situated in any town or city of not less than 100,000 inhabitants, shall make weekly statements under oath, before some officer to be designated by law, and keep the same posted in some conspicuous place in the office of such warehouse, and shall also file a copy for public examination in such place as shall be designated by law, which statement shall correctly set forth the amount and grade of each and every kind of grain in such warehouse, together with such other property as may be stored therein, and what warehouse receipts have been issued, and are, at the time of making such statement, outstanding therefor; and shall, on the copy posted in the warehouse, note daily such changes as may be made in the quantity and grade of grain in such warehouse; and the different grades of grain shipped in separate lots shall not be mixed with inferior or superior grades without the consent of the owner or consignee thereof.

[See Section 217.]

§ 3. The owners of property stored in any warehouse, or holder of a receipt for the same, shall always be at liberty to examine such property stored, and all the books and records of the warehouse, in regard to such property.

[See Section 218.]

§ 4. All railroad companies and other common carriers on railroads shall weigh or measure grain at points where it is shipped and receipt for the full amount, and shall be responsible for the delivery of such amount to the owner or consignee thereof, at the place of destination.

[See Section 219.]

§ 5. All railroad companies receiving and transporting grain in bulk or otherwise, shall deliver the same to any consignee thereof, or any elevator or public warehouse to which it may be consigned, provided such consignee or the elevator or public warehouse can be reached by any track owned, leased or used, or which can be used, by such railroad companies; and all railroad companies shall permit connections to be made with their track, so that any consignee and any public warehouse, coal bank or coal yard may be reached by the cars on said railroad.

[See Section 220.]

§ 6. It shall be the duty of the General Assembly to pass all necessary laws to prevent the issue of false and fraudulent warehouse receipts, and to give full effect to this article of the Constitution, which shall be liberally construed so as to protect producers and shippers. And the enumeration of the remedies herein named shall not be construed to deny to the General Assembly the power to prescribe by law such other and further remedies as

may be found expedient, or to deprive any person of existing common law remedies.

[See Sections 221 and 225.]

§ 7. The General Assembly shall pass laws for the inspection of grain, for the protection of producers, shippers and receivers of grain and produce.

[See Section 222.]

Article XIV.

AMENDMENTS TO THE CONSTITUTION.

§ 1. By a convention. § 2. Proposed by the Legislature.

§ 1. Whenever two-thirds of the members of each house of the General Assembly shall, by a vote entered upon the journals thereof, concur that a convention is necessary to revise, alter or amend the Constitution, the question shall be submitted to the electors at the next general election. If a majority voting at the election vote for a convention, the General Assembly shall, at the next session, provide for a convention, to consist of double the number of members of the Senate, to be elected in the same manner, at the same places and in the same districts. The General Assembly shall, in the Act calling the convention, designate the day, hour and place of its meeting, fix the pay of its members and officers, and provide for the payment of the same, together with the expenses necessarily incurred by the convention in the performance of its duties. Before proceeding, the members shall take an oath to support the Constitution of the United States and the State of Illinois, and to faithfully discharge their duties as members of the convention. The qualification of members shall be the same as that of members of the Senate, and vacancies occurring shall be filled in the manner provided for filling vacancies in the General Assembly. Said convention shall meet within three months after such election and prepare such revision, alteration or amendments of the Constitution as shall be deemed necessary, which shall be submitted to the electors for their ratification or rejection at an election appointed by the convention for that purpose, not less than two or more than six months after the adjournment thereof; and unless so submitted, and approved by a majority of the electors voting at the election, no such revision, alteration or amendments shall take effect.

[See Section 232.]

§ 2. Amendments to this Constitution may be proposed in either house of the General Assembly, and if the same shall be voted for by two-thirds of all the members elected to each of the two houses, such proposed amendments together with the ayes and nays of each house thereon, shall be entered in full on their respective journals, and said amendments shall be submitted to the electors of this State for adoption or rejection, at the next election of members of the General Assembly, in such manner as may be prescribed by law. The proposed amendments shall be published in full at least three months preceeding the election, and if a majority of the electors voting at said election shall vote for the proposed amendments, they shall become a part of this Constitution. But the General Assembly shall have no power to propose amendments to more than one article of this Constitution at the same session nor to the same article oftener than once in four years.

[See Section 233.]

Sections Separately Submitted.

Illinois Central Railroad. Illinois and Michigan Canal.
Municipal subscriptions to corporations.

ILLINOIS CENTRAL RAILROAD.

No contract, obligation or liability whatever, of the Illinois Central Railroad Company to pay any money into the State treasury, nor any lien of the State upon, or right to tax property of said company, in accordance with the provisions of the charter of said company, approved February tenth, in

the year of our Lord one thousand eight hundred and fifty-one, shall ever be released, suspended, modified, altered, remitted or in any manner diminished or impaired by legislative or other authority; and all moneys derived from said company, after the payment of the State debt, shall be appropriated and set apart for the payment of the ordinary expenses of the State government, and for no other purposes whatever.

[See Section 147.]

MUNICIPAL SUBSCRIPTIONS TO RAILROADS OR PRIVATE CORPORATIONS.

No county, city, town, township or other muicipality shall ever become subscriber to the capital stock of any railroad or private corporation, or make donation to or loan its credit in aid of such corporation: *Provided, however,* that the adoption of this article shall not be construed as affecting the right of any such municipality to make such subscriptions where the same have been authorized under existing laws, by a vote of the people of such municipality prior to such adoption.

[Omitted. See p. 106.]

CANALS.

The Illinois and Michigan canal, or other canal or waterway owned by the State shall never be sold or leased until the specific proposition for the sale or lease thereof shall first have been submitted to a vote of the people of the State at a general election, and have been approved by a majority of all the votes polled at such election. The General Assembly shall never loan the credit of the State or make appropriations from the treasury therof, in aid of railroads or canals;

Provided, that any surplus earnings of any canal, waterway or water power, may be appropriated or pledged for its enlargement, maintenance or extensions; and

Provided, further, that the General Assembly may, by suitable legislation, provide for the construction of a deep waterway or canal from the present water power plant of the Sanitary District of Chicago, at or near Lockport, in the township of Lockport, in the county of Will, to a point in the Illinois River at or near Utica, which may be practical for a general plan and scheme of deep waterway along a route, which may be deemed most advantageous for such a plan of deep waterway; and for the erection, equipment and maintenance of power plants, locks, bridges, dams and appliances sufficient and suitable for the development and utilization of the water power thereof ;and authorize the issue, from time to time, of bonds of this State in a total amount not to exceed twenty million dollars, which shall draw interest, payable semi-annually, at a rate not to exceed four per cent per annum, the proceeds whereof may be applied as the General Assembly may provide, in the construction of said waterway and in the erection, equipment and maintenance of said power plants, locks, bridges, dams and appliances.

All power developed from said waterway may be leased in part or in whole, as the General Assembly may by law provide; but in the event of any lease being so executed, the rental specified therein for water power shall be subject to a revaluation each ten years of the term created, and the income therefrom shall be paid into the treasury of the State.

(This section as amended was proposed by the General Assembly in 1907, ratified by a vote of the people November 3, 1908; proclaimed adopted by the Governor November 24, 1908.)

[See Sections 228, 229 and 231; also p. 106.]

CONVICT LABOR.

Hereafter it shall be unlawful for the commissioners of any penitentiary or other reformatory institution in the State of Illinois, to let by contract to any person or persons, or corporations, the labor of any convict confined

within said institution. (This section was submitted to the voters at the election in November, 1886, as an amendment, was adopted, and became a part of this Constitution.)

[See Section 50.]

SCHEDULE.

[Sections 1, 2, 3 and 6 of the schedule of the constitution of 1870 are substantially the same as Sections 1, 2, 3 and 4 of the schedule of the proposed constitution.

[Section 18 of the schedule of 1870 has been transferred to Section 207 of the proposed constitution.

[Sections 8 to 12 of the schedule of 1870 relate to the method of submitting that instrument to the people for ratification and in a general way correspond to Sections 29 to 35 of the schedule of the proposed constitution.

[Other sections of the schedule of 1870 were for the purpose of making the transition from the constitution of 1848 to the constitution of 1870 and are not directly comparable with any matter in the schedule of the proposed constitution.]

§ 1. Laws in force remain valid.
§ 2. Fines, penalties and forfeitures.
§ 3. Recognizances, bonds, obligations.
§ 4. County courts.
§ 5. All existing courts continued.
§ 6. Persons now in office continued.

That no inconveniences may arise from the alterations and amendments made to the Constitution of this State, and to carry the same into complete effect, it is hereby ordained and declared:

§ 1. That all laws in force at the adoption of this Constitution, not inconsistent therewith, and all rights, actions, prosecutions, claims and contracts of the State, individuals or bodies corporate, shall continue to be as valid as if this Constitution had not been adopted.

[See Schedule, Section 1.]

§ 2. That all fines, taxes, penalties and forfeitures, due and owing to the State of Illinois under the present Constitution and laws, shall inure to the use of the people of the State of Illinois, under this Constitution.

[See Schedule, Section 2.]

§ 3. Recognizances, bonds, obligations and other instruments entered into or executed before the adoption of this Constitution, to the people of the State of Illinois, to any State or county officer, or public body, shall remain binding and valid; and rights and liabilities upon the same shall continue, and all crimes and misdemeanors shall be tried and punished as though no change had been made in the Constitution of this State.

[See Schedule, Section 3.]

§ 4. County courts for the transaction of county business in counties not having adopted township organization shall continue in existence, and exercise their present jurisdiction until the board of county commissioners provided in this Constitution is organized in pursuance of an Act of the General Assembly; and the county courts in all other counties shall have the same power and jurisdiction they now possess until otherwise provided by law.

§ 5. All existing courts which are not in this Constitution specifically enumerated shall continue in existence and exercise their present jurisdiction until otherwise provided by law.

§ 6. All persons now filling any office or appointment shall continue in the exercise of the duties thereof according to their respective commissions or appointments, unless by this Constitution it is otherwise directed.

[See Schedule, Section 4.]

§ 7. On the day this Constitution is submitted to the people for ratification an election shall be held for judges of the Supreme Court in the second, third, sixth and seventh judicial election districts, designated in this Constitution, and for the election of three judges of the Circuit Court in the County of Cook, as provided for in the article of this Constitution relating to the judiciary, at which election every person entitled to vote according to the terms of this Constitution shall be allowed to vote and the election shall be otherwise conducted, return made and certificates issued in accordance with exiting laws except that no registry shall be required at said election: *Provided*, that at said election in the County of Cook no elector shall vote for more than two candidates for circuit judge. If upon canvassing the votes for and against the adoption of this Constitution it shall appear that there has been polled a greater number of votes against than for it then no certificates of election shall be issued for any of said supreme or circuit judges.

§ 8. This Constitution shall be submitted to the people of the State of Illinois for adoption or rejection at an election to be held on the first Saturday in July in the year of our Lord one thousand eight hundred and seventy and there shall be separately submitted at the same time for adoption or rejection sections nine, ten, eleven, twelve, thirteen, fourteen and fifteen relating to railroads, in the article entitled "Corporations," the article entitled "Counties," the article entitled "Warehouses," the question of requiring a three-fifths vote to remove a county seat, the section relating to the Illinois Central Railroad, the section in relation to the minority representation, the section relating to municipal subscriptions to railroads or private corporations and the section relating to the canal. Every person entitled to vote under the provisions of this Constitution, as defined in the article in relation to suffrage, shall be entitled to vote for the adoption or rejection of this Constitution, and for or against the articles, sections and questions aforesaid, separately submitted, and the said qualified electors shall vote at the usual places of voting unless otherwise provided; and the said election shall be conducted, and returns thereof made according to the laws now in force regulating general elections, except that no registry shall be required at said election: *Provided, however*, that the polls shall be kept open for the reception of ballots until sunset of said day of election.

§ 9. The Secretary of State shall, at least twenty days before said election, cause to be delivered to the county clerk of each county, blank poll books, tally sheets and forms of return, and twice the number of properly prepared printed ballots for the said election that there are voters in such county, the expense whereof shall be audited and paid as other public printing ordered by the Secretary of State is, by law, required to be audited and paid, and the several county clerks shall at least five days before said election, cause to be distributed to the board of election, in each election district in their respective counties, said blank poll books, tally lists, forms of return and tickets.

§ 10. At the said election the ballots shall be in the following form:

NEW CONSTITUTION TICKET.

For all the propositions on this ticket which are not cancelled with ink or pencil, and against all propositions which are so cancelled.

For the new Constitution.

For the sections relating to railroads in the article entitled "Corporations."

For the article entitled "Counties."

For the article entitled "Warehouses."

For a three-fifths vote to remove county seats.

For the section relating to the Illinois Central railroad.

For the section relating to minority representation.

For the section relating to municipal subscriptions to railroads or private corporations.

For the section relating to the canal.

Each of said tickets shall be counted as a vote cast for each proposition thereon not cancelled with ink or pencil, and against each proposition so cancelled, and returns thereof shall be made accordingly by the judges of election.

§ 11. The returns of the whole vote cast, and of the votes for the adoption or rejection of this Constitution, and for or against the articles and sections respectively submitted, shall be made by the several county clerks, as is now provided by law, to the Secretary of State, within twenty days after the election, and the returns of said votes shall, within five days thereafter, be examined and canvassed by the Auditor, Treasurer and Secretary of State or any two of them, in the presence of the Governor, and proclamation shall be made by the Governor forthwith of the result of the canvass.

§ 12. If it shall appear that a majority of the votes polled are "for the new Constitution," then so much of this Constitution as was not separately submitted to be voted on by articles and sections, shall be the supreme law of the State of Illinois on and after Monday, the eighth day of August, in the year of our Lord one thousand eight hundred and seventy; but if it shall appear that a majority of the votes polled were "against the new constitution" then so much thereof as was not separately submitted to be voted on by articles and sections, shall be null and void.

If it shall appear that a majority of the votes polled are "for the sections relating to railroads in the article entitled 'Corporations'," sections nine, ten, eleven, twelve, thirteen, fourteen and fifteen, relating to railroads in the said article shall be a part of the constitution of this State, but if a majority of said votes are against said sections, they shall be null and void. If a majority of the votes polled are "for the article entitled 'Counties'," such article shall be part of the constitution of this State, and shall be substituted for article seven, in the present Constitution, entitled "Counties;" but if a majority of said votes are against such article the same shall be null and void. If a majority of the votes polled are "for the article entitled 'Warehouses'," such article shall be part of the constitution of this State; but if a majority of the votes are against said article, the same shall be null and void. If a majority of the votes polled are for either of the sections separately submitted, relating respectively to the "Illinois Central railroad," "minority representation," "municipal subscriptions to railroads or private corporations," and the "canal," then such of said sections as shall receive such majority shall be a part of the constitution of this State; but each of said sections so separately submitted against which respectively there shall be a majority of the votes polled, shall be null and void: *Provided*, that the section relating to "minority representation" shall not be declared adopted unless the portion of the Constitution not separately submitted to be voted on by articles and sections shall be adopted; and in case said section relating to "minority representation" shall become a portion of the Constitution, it shall be substituted for sections seven and eight of the legislative article. If a majority of the votes cast at such election shall be for a three-fifths vote to remove a county seat, then the words "a majority" shall be stricken out of section four of the article on "Counties," and the words "three-fifths" shall be inserted in lieu thereof, and the following words shall be added to said section, to-wit: "But when an attempt is made to remove a county seat to a point nearer to the center of a county, then a majority vote only shall be necessary." If the foregoing proposition shall not receive a majority of the votes as aforesaid, then the same shall have no effect whatever.

§ 13. Immediately after the adoption of this Constitution, the Governor and Secretary of State shall proceed to ascertain and fix the apportionment of the State for members of the first House of Representatives under this Constitution. The apportionment shall be based upon the federal census of the year of our Lord one thousand eight hundred and seventy, of the State

of Illinois, and shall be made strictly in accordance with the rules and principles announced in the article on the legislative department of this Constitution: *Provided*, that in case the federal census aforesaid can not be ascertained prior to Friday, the twenty-third day of September, in the year of our Lord one thousand eight hundred and seventy, then the said apportionment shall be based on the State census of the year of our Lord one thousand eight hundred and sixty-five, in accordance with the rules and principles aforesaid. The Governor shall, on or before Wednesday, the twenty-eighth day of September, in the year of our Lord one thousand eight hundred and seventy, make official announcement of said apportionment, under the great seal of the State; and 100 copies thereof, duly certified, shall be forthwith transmitted by the Secretary of State to each county clerk for distribution.

§ 14. The districts shall be regularly numbered by the Secretary of State, commencing with Alexander County as number one, and proceeding then northwardly through the State, and terminating with the county of Cook, but no county shall be numbered as more than one district, except in the county of Cook, which shall constitute three districts, each embracing the territory contained in the now existing representative districts of said county. And on the Tuesday after the first Monday in November, in the year of our Lord one thousand eight hundred and seventy, the members of the first House of Representatives under this Constitution shall be elected according to the apportionment fixed and announced as aforesaid, and shall hold their offices for two years, and until their successors shall be elected and qualified.

§ 15. The Senate, at its first session under this Constitution, shall consist of fifty members, to be chosen as follows: At the general election held on the first Tuesday after the first Monday of November, in the year of our Lord one thousand eight hundred and seventy, two Senators shall be elected in districts where the term of Senators expires on the first Monday of January, in the year of cur Lord one thousand eight hundred and seventy-one, or where there shall be a vacancy, and in the remaining districts one Senator shall be elected. Senators so elected shall hold their office two years.

§ 16. The General Assembly, at its first session held after the adoption of this Constitution, shall proceed to apportion the State for members of the Senate and House of Representatives, in accordance with the provisions of the article on the legislative department.

§ 17. When this Constitution shall be ratified by the people, the Governor shall forthwith, after having ascertained the fact, issue writs of election of the sheriffs of the several counties of the State, or in case of vacancies, to the coroners, for the election of all the officers the time of whose election is fitted by this Constitution or schedule, and it shall be the duty of said sheriffs or coroners to give such notice of the time and place of said election as is now prescribed by law.

§ 18. All laws of the State of Illinois and all official writings, and the executive, legislative and judicial proceedings, shall be conducted, preserved and published in no other than the English language.

[See Section 207.]

§ 19. The General Assembly shall pass all laws necessary to carry into effect the provisions of this Constitution.

§ 20. The circuit clerks of the different counties having a population over 60,000, shall continue to be recorders (*ex-officio*) for their respective counties, under this Constitution, until the expiration of their respective terms.

§ 21. The judges of all courts of record in Cook county shall, in lieu of any salary provided for in this Constitution, receive the compensation provided by law until the adjournment of the first session of the General Assembly after the adoption of this Constitution.

§ 22. The present judge of the circuit court of Cook County shall continue to hold the circuit court of Lake County until otherwise provided by law.

§ 23. When this Constitution shall be adopted and take effect as the supreme law of the State of Illinois, the two mill tax provided to be annually assessed and collected upon each dollar's worth of taxable property, in addition to all other taxes, as set forth in article fifteen of the now existing Constitution, shall cease to be assessed after the year of our Lord one thousand eight hundred and seventy.

§ 24. Nothing contained in this Constitution shall be so construed as to deprive the General Assembly of power to authorize the city of Quincy to create any indebtedness for railroad or municipal purposes for which the people of said city have voted and to which they shall have given, by such vote, their assent, prior to the thirteenth day of December, in the year of our Lord one thousand eight hundred and sixty-nine: *Provided,* that no such indebtedness so created shall, in any part thereof, be paid by the State or from any State revenue tax or fund, but the same shall be paid, if at all, by the city of Quincy alone, and by taxes to be levied upon the taxable property thereof: *And, provided, further,* that the General Assembly shall have no power in the premises that it could not exercise under the present Constitution of the State.

§ 25. In case this Constitution, and the articles and sections submitted separately be adopted, the existing Constitution shall cease in all its provisions; and in case this Constitution be adopted, and any one or more of the articles or sections submitted separately be defeated, the provisions of the existing Constitution, if any, on the same subject shall remain in force.

§ 26. The provisions of this Constitution required to be executed prior to the adoption or rejection thereof, shall take effect and be in force immediately.

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